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Forty-fifth Session, 1935

1st to 6th, 8th and 9th April, 1935

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

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2. Khan Bahadur MUHAMMAD ABDUL MOMIN.
3. Mr. NARENDRA KUMAR BASU.
4. Babu JITENDRALAL BANNERJEE.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

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Ali, Mr. Altaf. [Bogra (Muhammadan).]
Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
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Arthur, Mr. C. G. (Indian Tea Association.)

B

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Blandy, Mr. E. N., C.I.E. (Nominated Official.)
Bose, Mr. S. M., Bar.-at-Law. [Calcutta East (Non-Muhammadan).]

*Oath taken on the 13th February, 1935.

C

Chanda, Mr. Apurva Kumar. (Nominated Official.)
Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
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D

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Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]
Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]
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Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur. [Minister.] [Tippera South (Muhammadan).]
Fazlullah, Maulvi Muhammad. [Noakhali West (Muhammadan).]
Ferguson, Mr. R. H. [Rajshahi (European).]

G

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Gilchrist, Mr. R. N., C.I.E. (Nominated Official.)
Gladding, D. (Nominated Official.)
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Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]
Guthrie, Mr. F. C. [Presidency and Burdwan (European).]

H

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Hosain, Nawab Musharruf, Khan Bahadur. [Malda *cum* Jalpaiguri (Muhammadan).]
Hossain, Maulvi Muhammad. [Bakarganj North (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
Khan, Maulvi Abi Abdulla. [Bakarganj South (Muhammadan).]
Khan, Mr. Hashem Ali. [Bakarganj West (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]
Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]

L

Lamb, Mr. T. (Bengal Chamber of Commerce.)
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Leeson, Mr. G. W. (Bengal Chamber of Commerce.)
Lockhart, Mr. A. R. E. [Presidency and Burdwan (European).]

*Deputy President, Bengal Legislative Council.

M

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Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]
Martin, Mr. O. M. (Nominated Official.)
McCluskie, Mr. E. T. (Anglo-Indian.)
Mitter, Mr. S. C. (Nominated Official.)
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Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Reverend B. A. (Nominated Non-official.)
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P

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Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]

Q

Quasem, Maulvi Abul. [Khulna (Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
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Rai Mahasai, Munindra Deb. [Hooghly Municipal (Non-Muhammadan).]
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Roy, Babu Haribansa. [Howrah Rural (Non-Muhammadan).]
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Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr. Sarat Kumar. (Presidency Landholders.)
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sachse, Mr. F. A., C.I.E. (Nominated Expert.)
Sahana, Rai Bahadur Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
Sen, Rai Sahib Akshoy Kumar. [Faridpur North (Non-Muhammadan).]

*President of the Bengal Legislative Council.

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Sen, Rai Bahadur Jogesh Chandra. [24-Parganas Municipal South (Non-Muhammadan.)]
Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]
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Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. (Burdwan Landholders.)
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Suhrawardy, Mr. H. S. [Calcutta South (Muhammadan).]

T

Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)

W

Walker, Mr. J. R. (Indian Jute Mills Association.)
Walker, Mr. R. L. (Nominated Official.)
Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Sir John, K.C.S.I., C.I.E. (Member, Executive Council.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Forty-fifth Session.)

Volume XLV—No. 3.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 1st April, 1935, at 3 p.m.

Present:

Mr. Deputy President (MR. RAZAUR RAHMAN KHAN, in the absence of the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 99 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Holidays allowed in Forest Offices.

***101. Dr. NARESH CHANDRA SEN GUPTA:** (*a*) Will the Hon'ble Member in charge of the Agriculture and Industries (Forest) Department be pleased to state whether it is a fact that the staff of the Forest Offices in Bengal are not allowed to avail themselves of gazetted Government holidays?

(*b*) If the answer to (*a*) is in the affirmative, what steps, if any, do the Government propose to take against such violation of Government orders in future?

(*c*) Has this practice been in vogue in the Forest Offices in Bengal in the past?

(*d*) If the answer to (*c*) is in the affirmative, for how many years has it been in force?

(*e*) Which of the holidays were not observed in full in the past 5 years?

(*f*) Are the staff of the Forest Offices allowed compensatory leave for working during Government holidays?

MEMBER in charge of AGRICULTURE and INDUSTRIES (FORESTS) DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) There is no fixed practice. Holidays are allowed so far as the state of work permits.

(*b*) Government do not propose to take any action in the matter.

(*c*) Yes.

(*d*) This is not on record.

(*e*) This has varied in different divisions according to the state of work in each at the time. It is not feasible to give a detailed list.

(*f*) No.

Flooding Ghuni Jatragachi and other villages in the 24-Parganas district.

***102. Dr. NARESH CHANDRA SEN GUPTA:** (*a*) With reference to the replies given to unstarred question No. 30 on the 23rd August, 1933, and to unstarred question No. 32 on the 24th August, 1933, will the Hon'ble Member in charge of the Irrigation Department be pleased to state what steps, if any, have been taken to prevent the flooding of the village Ghuni Jatragachi and adjoining villages and with what results?

(*b*) Is it a fact that the flood situation in these areas still remains practically unchanged and that no cultivation is possible under the present circumstances?

(*c*) Will the Hon'ble Member be pleased to lay on the table copies of the reports made by Mr. S. C. Mazumdar, Superintending Engineer, and Mr. Curry, the present Superintending Engineer, with regard to the question?

(*d*) Is it a fact that these officers made suggestions for relieving the situation?

(*e*) If the answer to (*d*) is in the affirmative, what are the reasons for holding them up?

(*f*) With reference to the answer to clause (*c*) of unstarred question No. 32, dated the 24th August, 1933, what are the extra facilities for drainage at Kulti referred to therein?

(*g*) What action has been taken on the proposals for the silt clearance of the Bhangore Canal, thorough repair of the Kristopur Canal embankments and the lowering of the present level of the canals by two feet contemplated by the notification published by Mr. W. R. Robson, Executive Engineer, in November, 1933?

(*h*) If nothing has been done, what are the reasons?

(*i*) What steps do the Government now propose to take in the matter?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*), (*c*), (*d*), *e*), (*g*), (*h*) and (*i*) Mr. Curry and Mr. Masumdar inspected the area on more than one occasion and prepared inspection notes for departmental use. It is not proposed to publish these departmental notes. The relief measures decided upon are:—

(*i*) repairing and strengthening the Chitpur Lock,

(*ii*) silt clearance of the Bhangore Khal,

(*iii*) strengthening the banks of the Kristopur Canal, and

(*iv*) repairing and strengthening the Kulti Lock.

The Chitpur Lock has been repaired and strengthened and the banks of the Kristopur Canal improved and strengthened. It is expected that silt clearance of the Bhangore Khal will be taken in hand shortly and the Kulti Lock will be repaired and strengthened in January to March, 1936.

(*b*) It is hoped that the works carried out and to be carried out will give appreciable relief as regards flooding.

(*f*) Utilising a side channel with box sluices.

Manager of Court of Wards estates.

*103. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether the Managers, Assistant or Sub-Managers employed under the Court of Wards in Bengal are allowed to enjoy the same privileges as the other officers of the Government in the Bengal Civil Service in respect of their appointment, leave, transfer, pay, prospect and status?

(*b*) How many Managers or Assistant Managers have been recruited to the Bengal Civil Service since the publication of the Government notification No. 7183A., dated the 22nd May, 1930, in the *Calcutta Gazette*, dated the 29th May, 1930, to the effect that the Managers, Assistant Managers under the Court of Wards are eligible for appointment in the Bengal Civil Service?

(*c*) How are the Managers, Assistant or Sub-Managers recruited for the estates under the Court of Wards in Bengal?

(*d*) When the post of a Manager falls vacant, in any district, are the claims of all other Managers or Assistant Managers of the province drawing pay lower than that of the vacant post considered by the authorities for filling up the vacancy?

(*e*) Do the Government take steps to try and provide for the Managers and their staff after the release of an estate or group of estates from the Court of Wards in which they were employed?

(*f*) If the answer to (*e*) is in the affirmative, will the Hon'ble Member be pleased to state in how many instances such provisions were not made during the last 3 years with reasons for the same?

(*g*) How many Managers, Sub-Managers or Assistant Managers have been discharged from service during the years 1933 and 1934 and on what grounds?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) No. Service under the Court of Wards is distinct from service under Government.

(*b*) Under the notification referred to they are not eligible for promotion to the Bengal Civil Service, but to the Bengal Junior Civil Service.

(*c*) By promotion and selection. A list of approved candidates is maintained.

(*d*) Yes, generally when the appointment is made by the Board.

(*e*) Yes, provided they have rendered satisfactory service and are not retained in service by the proprietors of the estates released.

(*f*) It is not possible to furnish the information without a laborious enquiry which Government regret they are not prepared to undertake.

(*g*) Eleven. The main grounds were inefficiency, neglect of duty and the release of estates.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Estates attached under section 99 of the Cess Act.

53. Mr. SHANTI SHEKHARESWAR RAY: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) the total amount collected by attachment of estates under section 99 of the Cess Act in the district of Rangpur during the last two years; and

(*ii*) how much has been paid towards land revenue and cesses?

(*b*) Will the Hon'ble Member be pleased to state in what other districts action under section 99 of the Cess Act has been taken and with what results?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*)(*i*) Rupees 14,79,532-3-1.

(*ii*) Rupees 5,14,132-10-4.

(*b*) In Dinajpur, Pabna, Jessore, Khulna and Faridpur.

A statement showing the result of these attachments is laid on the table.

District.	Amount collected.	Payments made.	
		Revenue.	Cess.
	Rs.	Rs.	Rs.
Dinajpur ..	20,341	14,798	Nil
Pabna ..	1,30,500	59,212	43,967
Jessore ..	5,874	Nil	446
Khulna ..	83,408	38,677	41,846
Faridpur ..	375	Nil	Nil

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Electricity Bill, 1935.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg to move that the Bengal Electricity Duty Bill, 1935, as reported by the Select Committee, be taken into consideration.

Sir, the Report of the Select Committee has been in the hands of the members for some time. Perhaps I need not do more than remind the House of some of the more important changes made by the Select Committee. As introduced in the Council, the operation of the Bill was not limited in time. The Committee, however, came to the conclusion that, having regard to the circumstances attending the imposition of the additional taxation provided for by this and the four other taxation measures before the Council, the duration of the electricity duty, which this Bill seeks to impose, should be limited to a period of three years. Sir, clause 1 was amended in accordance with that decision and now contains a provision limiting the duration of the Act to three years.

The proviso to clause 3 provides for certain exemptions. The Committee recast this proviso, and the proviso, as redrafted, provides for the exemption, in addition to those originally included in the Bill, of mines except in respect of premises used for residential or office purposes, places of public worship, public burial or burning-grounds, vessels whether sea-going or inland, and premises declared by the Local Government to be used exclusively for purposes of public charity.

New clause 3A is doubtless one which many members of the House will welcome. It provides for a concession in favour of newly formed electrical undertakings, the concession taking the form of an exemption from the duty for a period of three years from the date on which energy is first supplied.

There are two other points to which I should like to refer. The first is new clause 8A which provides for the exemption, chiefly on administrative grounds, of private generating plants having a capacity not exceeding 2½ kilowatts. The second is the insertion of a new item, item 8 of the Schedule. This item replaces Explanation (2) (*a*) of that Schedule and has been redrafted in order to make the meaning clearer, and provides, in addition to the exemption of small tenements as in the original draft, for the exemption of small shops.

Sir, I think I need add nothing more at this stage.

Mr. P. BANERJI: Sir, I beg to move, by way of amendment, that the Bill be recommitted.

Sir, my object for moving this motion is obvious. First we, on this side of the House, are opposed to taxation measures like these, particularly in our present circumstances. Secondly, in presenting the Report of the Select Committee, the Hon'ble the Finance Member has given us just now a detailed statement, and said that there have been many changes made in the Bill by the Select Committee. I do not, however, consider these changes to be of an important nature. We would have appreciated such changes as exemptions to twenty units of consumption instead of twelve. If that was done, the poorer section of the people would have appreciated such exemptions, but Government have done nothing in this direction.

Sir, while moving and discussing the same motion at an earlier stage, we considered that at this time these Bills should be termed as obnoxious and should not have been introduced in the present circumstances. It is a fact, Sir, that the people are already overtaxed, and that, therefore, they would be very hard hit if this additional taxation in the shape of electricity duty is now imposed. It is well known that Mr. Homan was kind enough to announce that the electricity charge

would be reduced by at least three pies per unit, but to our utter surprise, we find that at the same time, Government is going to charge half an anna as duty. Sir, this duty is double the amount recently announced as reduction of the charge. Government is getting electricity at a very cheap rate which we termed as undue preference given to Government. Government maintain, however, that because they are big consumers of electricity they are entitled to a reduced rate. I think that position is not maintainable because Government do not fall within the category of those who should get concessional rates under the provisions of the Indian Electricity Act.

There is another point, and that is that this duty at the rate of one-half anna per unit will be charged here in Calcutta as also in the mufassal. In this connection, many members of the Select Committee have submitted their notes of dissent, and in doing so have said that while the mufassal people pay a charge which may extend even up to eight annas per unit, in Calcutta the charge is only two and a half annas per unit, and that, therefore, there should be no taxation for mufassal areas. What I urge is that we here should take a united stand against Government in all such matters and should not view things from a narrow standpoint. In order to defeat our purposes, the Hon'ble the Finance Member has brought in not one but five taxation measures of different kinds so that while members might oppose each other on the different taxation proposals brought forward, the Hon'ble Sir John Woodhead would have his own way. Therefore, my submission is that we should stand shoulder to shoulder and unite and fight out these matters, no matter whether we represent rural or urban areas. Member after member has opposed these taxation proposals, but we have had the spectacle of losing our case simply because we are not united. Besides, the taxation proposals are not meant to benefit the people; the money to be raised is going to be utilised for meeting the deficit of Government. Therefore, I think we should unite and throw out these measures wholesale.

Then, Sir, the Select Committee was quite competent to invite public opinion; but so far as I am aware, no public opinion has been sought for. The whole thing has been simply hurried through in this busy Budget Session when every member was preoccupied with the passage of the Provincial Budget. I, therefore, think that Government should accept my motion and give the public a chance to consider the measures fully. The Hon'ble the Finance Member says that the Select Committee has considered many points, but I say that they have not considered the most vital point, namely, that exemptions should be given up to twenty units which would relieve the middle class poorer people. The effect of passing this measure would be that the poorer middle class people would be hardest hit.

With these words, Sir, I move my motion.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I oppose the motion moved by the Hon'ble Sir John Woodhead. The Hon'ble Finance Member has made out no case in favour of additional taxation at the present moment, and if he had been wise, he would have refrained from coming forward with such a measure at the fag end of the Session. One of the grounds advanced by him in this connection is that he has pledged the honour of the Government of Bengal in securing a contribution from the Government of India, and that it is up to the people of Bengal and this House to help him to redeem that pledge. Sir, in pledging a taxation behind our back and behind the back of the people of Bengal, Sir John Woodhead has done a grievous wrong to the people of Bengal. Sir, our demand for the jute duty was not based on any such considerations. As a matter of fact, by giving such a pledge and in asking us to redeem that pledge, the Hou'ble Sir John Woodhead has weakened our position. Instead of the jute duty coming to us as a matter of right and instead of the injustice done to Bengal by the Meston Award being remedied in the ordinary course, this step is fraught with great mischief. This is the thin end of the wedge. As a matter of fact, by agreeing to taxation before any further help is forthcoming from the Government of India, we in a way are accepting the justice of the Award, and we also accept the justice of the claim put forward by others that Bengal is not entitled to this jute duty. In a way, it takes away all justification for the demand that the jute duty should come to Bengal, and if not on any other ground, on this particular ground, the Council should throw out these taxation Bills and refuse to redeem the pledge given behind our back by the Hon'ble the Finance Member to the Government of India. It is not a question, Sir, of raising a few lakhs that the Government now proposes to do by these taxation measures to which we object. It is this policy of surrendering our right, our just right, before we get back our money from the Government of India. Sir, my objection would not have been so strong if the Hon'ble the Finance Member had not advanced this as a ground for fresh taxation.

Apart from that, Sir, there is another point that at the present moment I do not see any reason whatsoever for fresh taxation. While so far as the budgetary position is concerned, there has been a worse situation, and even then there was no demand for fresh taxation. If in previous years when the financial position of the Government of Bengal was worse, there was no demand for fresh taxation, why should there be a demand for taxation just at the present moment? But Government feel that their financial position is sufficiently strong to restore the 5 per cent. cut in the pay of Government servants, though

it was distinctly stated that there would be no restoration of that cut until the financial position of Bengal improved. Evidently the Government of Bengal cannot have it both ways.

We are told, Sir, that the Government of India have been pledged to get Bengal to contribute something before they can extend their helping hand to Bengal. It is well known that they imposed a tax on matches so as to be able to give this benefit to Bengal, but what is the result? The result of this is that because Bengal is to get back her just dues, the people will have to pay more for matches. Matches have been taxed. Salt has also been taxed, and Bengal has to pay for them too. For this benefit of getting back their own money, they have to pay further taxes in different ways. Therefore, it amounts to this, that as a result of this vicious circle, we are being taxed and taxed over again, and we must refuse to be drawn into this vicious circle, the vicious circle in which the Hon'ble the Finance Member has got himself involved. We should rather help him to extricate himself from this unenviable position. The Government of Bengal with the help of the official block may carry this measure and impose this taxation, but they are in a way stabbing Bengal in the back by such conduct on their part. When a measure is passed in this Council, it is not understood to be a measure on behalf of the official block; it goes by the name of an enactment of the Bengal Legislative Council as a whole. People in the mufassal think that such a measure has been inflicted on them not by the Government of Bengal, but with the vote of the Bengal Legislative Council. In a few months, Sir, we shall have to go to our constituencies and seek their suffrage, and on the eve of this new election, the attempt on the part of the Government of Bengal, with the help of the official block, to pass this measure, is nothing short of, as I said before, stabbing the Bengal Legislative Council in its back. This will make us unpopular to our constituencies, and whatever little chance members of the present Legislative Council may have of coming back by justifying their actions and services, this very measure will crush all their hopes.

Sir, these are the main grounds on which I oppose these taxation Bills; particularly this measure that is now before the House. I know that the Government have attempted to meet the wishes of the members of the Select Committee to a certain extent. They have conceded that this taxation measure, instead of being of a permanent nature, should be in force for three years only. I am surprised to find that the members of the Select Committee have been won over by such a concession. It is well known that the economic situation, particularly that in this province, is very bad. It is worse in the mufassal of Bengal. If the Government of Bengal can justify imposition of fresh taxation at this time of economic distress, what justification will there

be three years hence when we naturally expect that there will be an improvement in the economic situation for abolishing these taxes? Sir, if people can pay fresh taxes at the present time, can they press for the removal of these taxes when the situation will be better when they will be in a position to bear these taxes? Sir, there is no point in making this taxation for three years only. I would ask the House to take up the attitude that this time is not the right time for taxation and if there must be taxation, let it come three years hence when the situation would be better. It is wrong to suppose that there is any support for any of these Bills from any quarter in the country. Well, Sir, last year the Hon'ble Mr. Reid brought forward a measure, an amending Bill, which I termed as *Mahabharat* of the legislation because several Acts were proposed to be amended by that measure. This year we have got this measure, this taxation, a sort of monster, a sort of five-fangled monster, with which the Government hope to raise money, but which I think will kill all enterprises, will kill all the attempts for economic revival in this province.

The Hon'ble Sir JOHN WOODHEAD: Sir, I understand I am replying to the motion as regards recommittal. Mr P. Banerji adduced certain arguments in favour of the Bill being recommitted to the Select Committee. As far as I could gather his argument was simply this: The Committee had not made the changes in the Bill which he considered necessary and therefore it should be recommitted. I hope the House will not accept that as a sufficient ground for recommittal. The Select Committee considered the Bill very carefully and made some important changes. The mere fact that the Bill, as it has emerged from the Select Committee, does not meet with the approval of one particular member of this House is no reason why it should be recommitted.

As regards Mr. Shanti Shekhareswar Ray, he did not, so far as I could gather, say one word about recommittal. His speech was devoted entirely to expressing his strong disapproval of taxation of any kind at this juncture, and he repeated arguments which have been used very, very frequently during this Session, arguments to which I have repeatedly replied. Still I suppose I shall have to deal once more with those arguments. He said I had given a pledge behind the back of this Council. Sir, I have done nothing of the sort. I gave no pledge that Bengal would impose additional taxation provided that half the jute duty was allocated to this province. I gave no pledge of that kind and obviously I could not give any such pledge. The proposal which the Government of India placed before the Legislative Assembly was that this province should be given, in advance of the new constitution, half the net proceeds of the jute duty, and the grant

was subject to one condition, a condition which I have mentioned at least a dozen times. Again Mr. Shanti Shekhareswar Ray said that the 5 per cent. cut had been restored because the financial position of Bengal was considered sound enough to warrant the restoration of that cut. I certainly never said anything of the sort. I have always been very careful to explain that the cut was restored in view of certain action taken by the Government of India as regards the All-India and Central Services. But the real trouble with Mr. Shanti Shekhareswar Ray is the coming election. I do not know whether he is a true prophet as regards the time when the election will take place; I doubt whether he is. But surely, Sir, Mr. Shanti Shekhareswar Ray should be strong minded enough to come to his own decision and not merely be guided by what he thinks his future constituents will think. I have no hesitation in opposing Mr. P. Banerji's motion for recommittal.

Mr. P. Banerji's motion for recommittal being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Nasean.	Neque, Kazi Emdadul.
Banerji, Mr. P.	Maiti, Mr. R.
Basu, Mr. Narendra Kumar.	Norton, Mr. H. R.
Chaudhuri, Babu Kishori Mohan.	Qasem, Maulvi Abul.
Chowdhury, Maulvi Abdul Ghani.	Ray, Mr. Shanti Shekhareswar.
Choudhury, Maulvi Nural Absar.	Saut, Babu Nocni.
Fazlullah, Maulvi Muhammad.	Samad, Maulvi Abdus.

NOES.

Afzal, Nawabzada Khwaja Mohammad, Khan Bahadur.	Hossain, Maulvi Mohammad.
Ahmed, Khan Bahadur Maulvi Emaduddin.	Hussain, Maulvi Latafat.
Arthur, Mr. G. S.	Khan, Khan Bahadur Maulvi Muazzam Ali.
Bakah, Maulvi Syed Majid.	Khan, Maulvi Abi Abdulla.
Bal, Babu Lalit Kumar.	Khan, Mr. Nasham Ali.
Bal, Rai Sahib Sarat chandra.	Khan, Maulvi Tamizuddin.
Bannerjee, Babu Jitendralal.	Lamb, Mr. T.
Barma, Rai Sahib Panchanan.	Maguire, Mr. L. T.
Benjamin, Mr. H. R.	Martin, Mr. C. M.
Bleady, Mr. E. S.	McCluskie, Mr. E. T.
Bose, Mr. S. M.	Miller, Mr. S. C.
Bose, Mr. Sukumar.	Miller, the Hon'ble Sir Brojendra Lal.
Chanda, Mr. Aperva Kumar.	Mitra, Babu Sarat Chandra.
Chaudhury, Khan Bahadur Maulvi Ahmuzzaman.	Momin, Khan Bahadur Mohammad Abdul.
Chaudhuri, Khan Bahadur Maulvi Nafizar Rahman.	Mukherji, Rai Bahadur Satish Chandra.
Cohen, Mr. D. J.	Mukhopadhaya, Rai Sahib Sarat Chandra.
Das, Babu Guruprasad.	Mullick, Mr. Nukunda Behary.
Dutt, Mr. S. S.	Mukherji, Rai Sahib H. N.
Ferguson, Mr. R. N.	Nag, Reverend D. A.
Gilchrist, Mr. R. N.	Nandy, Maharaja Srie Chandra, of Kasimbazar.
Gladding, Mr. B.	Nazimuddin, the Hon'ble Khwaja Sir.
Guha, Mr. P. N.	Raheem, Mr. A.
Guiterie, Mr. F. G.	Rahman, Khan Bahadur A. F. M. Abdur-.
Haque, the Hon'ble Khan Bahadur M. Azizul.	Rahman, Maulvi Azizur.
Hodge, Mr. J. D. V.	Rai Mahasai, Manindra Deb.
Homan, Mr. P. T.	Ray, Babu Nagendra Narayan.
	Ray Chowdhury, Mr. K. C.
	Sudaliar, Mr. S. W.

Bold, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satiswar Singh.
Roy, Mr. Sarat Kumar.
Roy Chowdhuri, Babu Nem Chandra.
Sandilyan, Maulvi Muhammad.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Shah, Maulvi Abdul Hamid.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Steven, Mr. J. W. H.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 14 and the Noes 70, the motion was lost.

The original motion of the Hon'ble Sir John Woodhead was then put and agreed to.

Clauses 1 and 2.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I beg to move that in clause 1 (*1*), line 1, for the word "Bengal" the word "Calcutta" be substituted.

I also move that in clause 1 (*2*) for the words "the whole of Bengal" the word "Calcutta" be substituted.

Sir, the reason why I move these motions is to make the basis of this taxation just and equitable. At the outset I want to make my position clear to hon'ble members from Calcutta. These motions of mine have been brought not out of spite to the Calcutta people. Therefore, they need not think that the mufassal members want to gain at the cost of Calcutta. Far from that, that is not the idea. The reason is that the rate paid by the Calcutta consumers is 10 pice per unit, whereas the rate paid by the people in other places throughout the province is always double and sometimes more than double. Take for instance my district. In the municipal towns of Hooghly and Chinsura the rate is 8 annas and 6 annas, respectively, and I think the same rate obtains in various towns in the mufassal. Attempts have been made by the local people to induce the local companies to reduce their rate, not to bring it into line with the Calcutta rate, but to make it nearer to it, having regard to the cost and the investments these companies have made, but to no purpose. In my own town a movement is on foot and I have seen some people trying to induce the consumers to cut off their connections, and the same movement is going on in Chandernagore where the same company is managing. If that be so, is there any justification for imposing this additional duty of 2 pice per unit on all consumers when one set pays only 10 pice per unit and the other pays annas 6? I appeal to the Hon'ble Member in charge to consider another aspect of the case. What is the proportion of the tax that is sought to be levied by this Bill from the mufassal? I do not think that more than 10 per cent. can be realised from the mufassal. If that be so, the question is whether it would be just and equitable to impose this rate upon the mufassal people. I do not know what will be the fate

of this taxation. It may be that the companies will have to close altogether, because the people in the mufassal are unable to pay 6 annas or 8 annas per unit, while the Calcutta people pay a lower rate. So, my appeal to the Hon'ble Member in charge of the Bill is to consider this aspect of the question. Would it not be advisable to extend the operation of this Bill to a few places outside Calcutta in addition to Calcutta? With the permission of the Chair, I should like to modify my amendment to the effect that instead of "Calcutta" it might be extended to the town of Calcutta and to areas served by the Calcutta Electric Supply Corporation. The reason is that the rate charged by this company is the same, whether it is in the town of Calcutta or in the town of Serampore. This I think will serve the purpose of Government, inasmuch as it will raise the revenue to the nearest approach expected by Government without unnecessarily imposing a heavier burden on the mufassal people. The further effect of this Bill will, in these days of economic depression, be to affect the small industrial concerns in various places. It may be that these companies will have to close down. Therefore, in the interest of the country I appeal to the Hon'ble Member that this Bill might be confined only to Calcutta and to areas served by the Electric Supply Corporation of Calcutta.

MUNINDRA DEB RAI MAHASAI: Sir, I give my wholehearted support to the amendments moved by my friend Rai Bahadur Satish Chandra Mukherji. I know that the people of Hooghly and also of other mufassal towns are protesting against the high rate they have to pay for electric current. In my town of Bansberia where also we have arranged to have electric lights we have protested against the high rate. The commissioners of our municipality are hesitating to take any action on account of this proposed tax which will entail payment of an additional tax of ½ anna over and above 6 annas. Some proposed industrial concerns which will have to be worked with electricity have also been kept in abeyance on this very account. Therefore, Sir, it will greatly hamper the development of industries in the mufassal if this additional tax is imposed on the use of electrical energy. With these words I support the amendments.

Mr. HASHEM ALI KHAN: Sir, I also beg to support these motions. As the mover has said, I do not think these motions have been moved out of any feeling of jealousy against the people of Calcutta, but in consideration of the poverty of the mufassal people, particularly of people living in mufassal towns. Sir, I come from the town of Barisal where some attempts were made during the last 15 years for the starting of an electric company, and as a matter of fact a company was started and some money was collected for the purpose. At present the rate there is 6 annas per unit and it is proposed to raise it to 8

annas. Now, you can easily think whether it is possible for people living in the mufassal towns to pay at the rate of 6 annas per unit. When a company is floated, people become very much tempted to get electric connections, in spite of their inability to pay the charges. There are clerks and petty shopkeepers for whom it is not possible to pay such a high charge as 6 annas or 8 annas. Over and above that, they will have to pay this additional 2 pice per unit. Now, for ordinary household purposes, I do not think more than 12 units are consumed. If the people in general do not have electric connections in their houses in view of this, the result will be that the people will be inconvenienced and the infant industries that might have been started in the various districts and towns will collapse. Therefore, I do not think Government will gain much by extending the operations of this Bill to mufassal towns. So in consideration of all these facts, I do not think it will be desirable on the part of Government to drag in these mufassal people and create discontent amongst them. I, therefore, appeal to the Hon'ble Member to confine this Bill to Calcutta and its suburbs only.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I rise to give my whole-hearted support to this resolution. The mover has set forth in a very cogent reason the object of his motion. It is well known that the mufassal people pay at a very high rate, viz., 6 to 8 annas per unit, whereas the Calcutta people pay at 2½ annas per unit. Further, the Calcutta Electric Supply Corporation have decided to reduce their rate. So, if there is any additional fees or tax on the Calcutta people, neither the Calcutta Electric Supply Corporation nor the people of Calcutta will be very much affected. But in the case of the mufassal people, it is different. If they have to pay 2 pice per unit in addition to what they are paying at present, both the consumers and the infant companies will suffer much. It may be the infant industrial concerns will have to close down. To my mind we should not do anything that would lead to destroy the industrial enterprise. Moreover, from the Government point of view, I do not think that Government will gain much by levying this tax on the mufassal people as the amount expected from that quarter will be very, very small. On these grounds I think Government should reconsider this question and accept this amendment.

Mr. H. S. SUHRAWARDY: I just intervene to ask a question of the Hon'ble Member—if he has statistics in his possession which will enlighten us as to what difference it would make to this tax if this amendment were carried by the House.

The Hon'ble Sir JOHN WOODHEAD: I have not got accurate figures, and it is difficult to get such figures before the Act has been brought into operation.

Mr. F. T. HOMAN: Sir, I think there is a little confusion of thought with regard to this amendment that has been put up, namely, that the tax should apply to Calcutta only and not to the whole of Bengal. The mover of the motion suggested that this tax should apply to areas supplied by the Calcutta Electric Supply Corporation. If that is so the effect of the resolution will be presumably that the municipal area of Calcutta would be liable to the tax, thus excluding Howrah, Serampore and other parts which are supplied by the Calcutta Electric Supply Corporation; and not only that, because there are many other sources of supply in Bengal, such as supply from private plants to mills, collieries, etc., which in respect of their residential premises are liable to this tax. I have no figures before me as to the amount of tax which will be collected outside of Calcutta's greater area, but anyway it would certainly seem to be discriminatory legislation to apply the tax to Calcutta and its environs only and exclude the whole of Bengal. I oppose the motion, Sir.

The Hon'ble Sir JOHN WOODHEAD: Sir, I must oppose this motion. It is a struggle between the mufassal and Calcutta. First of all as the motion is worded I do not understand what "Calcutta" means. I assumed it meant the Calcutta Municipality. Now I understand members of this House interpret as meaning the area supplied by the Calcutta Electric Supply Corporation. That certainly would not be the meaning attached to the word "Calcutta" if it were used without a definition in the Bill. If the tax were limited to "Calcutta," there is certainly no reason why consumers in Howrah and other areas outside the Calcutta Municipality, for instance, the suburban municipalities, should not be liable to this tax. But the point I would make is this: Take an area where the rate charged for electricity is 6 annas per unit. In view of the 12-unit exemption, a consumer in such an area whose monthly bill is not more than Rs. 4-8 a month is not liable to the tax because in accordance with the exemption a person whose consumption of electricity is not more than 12 units is exempted and the cost of 12 units a month at 6 annas a unit is Rs. 4-8. The member from Barisal spoke of the poor clerks and petty shopkeepers being hard hit by the surcharge but, surely, Sir, such persons will be covered by the 12-unit exemption. Such persons are not in a position to pay more than Rs. 4-8 a month for their electricity and will therefore be exempt. In the mufassal only persons who are quite comfortably off and who can spend, say, at least Rs. 4-8 a month on their electricity, will be liable to pay the tax and Sir, I see no reason whatsoever why this type of gentlemen should be placed in a favourable position so far as this taxation is concerned. The Rai Mahasai complained that the surcharge would prevent Bansberia from obtaining a supply of electricity and Maulvi Hashem Ali Khan spoke in similar strain as regards Barisal;

but have they both forgotten that there is a clause in the Bill, as amended by the Select Committee, which exempts newly formed supply organisations for a period of three years from the date of first supply? In Barisal, I believe, supply commenced in February last, and if that be so, no one will be liable to pay this tax in that area till February 1938. Similarly, if a supply company is started in Bansberia, the consumer in Bansberia will also be exempted for three years. Again, the Rai Mahasai made a mistake when he referred to electrical energy used for industrial purposes being subject to the surcharge. That, Sir, is not so. Energy used for industrial purposes in industrial concerns, except so far as it is used for lights and fans in their offices and residences, is not subject to the surcharge. Again, I see no reason why places like Dacca, Darjeeling, Barrackpore, Chittagong, etc., should be exempted from contributing their share of the duty. It is difficult to make an estimate of the revenue likely to be realized from the area outside the area supplied by the Calcutta Electric Supply Corporation partly because figures as regards the surcharge payable by private producers is not available. For instance, there are jute mills outside the "Calcutta" area and they will be liable to pay the tax on energy which they produce themselves and use for lights and fans in their offices and residences. I agree that the amount we shall realize from the mufassal will be relatively small compared with that realized from the "Calcutta" area; it may not be more than somewhere between Rs. 70,000 and a lakh. But surely there is no reason when we are considering taxation proposals why we should exempt certain persons from a tax because the amount we shall get from that particular section of the general body of taxpayers is relatively small. And so far as Bengal is concerned Rs. 70,000 or a lakh is certainly not a small amount. We think and think and think before we incur new expenditure involving half a lakh. If we could spend half a lakh without thinking twice, our financial position would not be such as to require additional taxation.

Mr. DEPUTY PRESIDENT: I would first put motion No. 6, because if that fails, the other will automatically fail.

Rai Bahadur Satish Chandra Mukharji's motion that in clause 1 (2), for the words "the whole of Bengal," the word "Calcutta" be substituted being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.	Choudhury, Maulvi Nurul Absar.
Datah, Maulvi Syed Majid.	Fazlullah, Maulvi Muhammad.
Banerji, Mr. P.	Haque, Kazi Emdadul.
Barma, Babu Promhari.	Hossain, Maulvi Muhammad.
Basu, Mr. Narendra Kumar.	Kasem, Maulvi Abul.
Bhaudhuri, Babu Kishori Mohan.	Khan, Maulvi Abi Abdulla.
Chowdhury, Maulvi Abdul Ghani.	Khan, Mr. Nashem Ali.

Khan Maulvi Tamizuddin.
Khalil, Mr. [illegible]
Mallick, Babu Surat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Nag, Babu Suil Lal.
Pedder, Rai Ananda Mohan.
Peddar, Seth Hanuman Prasad.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Nanni.
Roy, Mr. Surat Kumar.
Roy Chowdhuri, Babu Nem Chandra.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Arthur, Mr. G. S.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Bazir Uddin, Khan Sahib Maulvi Mohammad.
Benjamin, Mr. H. D.
Bleady, Mr. E. R.
Bose, Mr. S. M.
Basu, Mr. S. K.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizar Rahman.
Cohen, Mr. D. J.
Das, Babu Gurupresad.
Dutt, Mr. S. S.
Ferguson, Mr. R. N.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Lamb, Mr. T.
Maguire, Mr. L. T.
Martin, Mr. G. M.
McGlashin, Mr. E. T.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukhopadhaya, Rai Sahib Surat Chandra.
Mullick, Mr. Mukunda Behari.
Mukherji, Rai Sahib M. M.
Nag, Reverend S. A.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Raheem, Mr. A.
Ray Chowdhury, Mr. K. G.
Redditt, Mr. S. W.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Sir Bijay Prasad Singh.
Saadatullah, Maulvi Mohammad.
Steven, Mr. J. R. W.
Thompson, Mr. W. H.
Townsend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir Jasa

The Ayes being 37 and the Noes 47, the motion was lost.

The other motion automatically failed.

(The House was then adjourned for 15 minutes.)

(After Adjournment.)

The motion that clauses 1 and 2 stand part of the Bill was put and agreed to.

Clause 3.

Mr. DEPUTY PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

As regards amendments Nos. 8 and 9, the previous sanction of the Governor-General is necessary and it has not yet been received. So they cannot be moved.

Kazi EMDADUL HOQUE: Sir, will they be taken up later?

Mr. DEPUTY PRESIDENT: No, it is too late as regards this Bill; but you can bring up an amending Bill later on if you so desire.

Kazi EMDADUL HOQUE: Sir, I beg to move that in the proviso to clause 3, in sub-clause (*c*) (*i*), line 2, after the word "place" the words "public or private" be inserted.

Now, Sir, the Bill clause wants to exempt from the payment of electricity duty any place of public worship, public burial or burning-ground or other place for the disposal of the dead. The words "other place" may include a private or public burial-ground, etc., but what I want is that the matter should be specifically and clearly stated. It may be that a certain individual or a person, who has got a private burial-ground, may require electricity to light up the place, which is used for the disposal of dead bodies. If he be required to make payment in excess of what he is doing now, he will cease to utilize electric energy for the purpose of lighting up the place. So, I think that the matter should be more specifically stated, viz., that any place for the disposal of the dead, whether public or private, should be brought under the operation of this exemption. With these few words, Sir, I beg to move my amendment.

The Hon'ble Sir JOHN WOODHEAD: Sir, I am afraid I must oppose this amendment. There is no precedent for exempting from taxation private places for the disposal of the dead. Further, the exemption of private burial-grounds or burning *ghâts* or private places for the disposal of the dead will certainly give rise to administrative difficulties. I oppose this amendment.

The motion was then put and lost.

Mr. DEPUTY PRESIDENT: I propose to take up amendments Nos. 12 and 14 together if the House has no objection, as they relate to the same point.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in clause 3, after proviso (*c*) (*iii*), the following be added, namely:—

"(*iv*) place where energy is supplied to a consumer at a charge exceeding 5 annas per unit."

Mr. ANANDA MOHAN PODDAR: I do not want to move amendment No. 14.

Babu KHETTER MOHAN RAY: Sir, this is a very modest amendment. In places like Howrah, Barrackpore, which are near about

Calcutta, electricity is supplied by the Calcutta Electric Supply Corporation. So the acceptance of this amendment will mean a very insignificant loss to Government; on the other hand, its acceptance will afford a great relief to the struggling electric supply concerns which are working in the mufassal. In our town of Comilla, some years ago an electric supply concern was started, but it has been carrying on its existence in a miserable and precarious manner. The cost of production is very high as compared with the amount of energy supplied to the consumers. Sir, this concern would have broken down long ago had not the military been stationed in our town; and the electric company got some money from them, which has enabled it to carry on somehow its existence up to this time. This exemption will not affect in any way the companies which are working successfully in the mufassal, *i.e.*, those which are selling electric energy at a higher rate than 5 annas. It is not on account of the rapacity of the companies that the charge is very high—sometimes 8 annas per unit—but it is on account of the cost of production in the mufassal towns that the companies have to charge a rate which is higher than that prevailing in Calcutta and other places near Calcutta. It might be that these companies have been successful in some places, but in other places they are struggling for a bare existence and have not even been able to declare any dividend to their shareholders up to this time. With these remarks, Sir, I move this amendment, and I appeal to the Hon'ble Member in charge to accept it, as it will not in any way endanger the yield from the tax which Government want to collect from this proposed taxation on electricity. On the other hand, the electric concerns in the mufassal will feel greatly relieved if they are excluded from the operations of this clause.

Mr. K. C. RAY CHOWDHURY: This motion seems to me to be an indirect way of excluding the mufassal consumers. I have every sympathy with the mufassal consumers as the charge for electric current is much more than what they can afford to pay. But if you compare the electricity rate of Calcutta with the rate in the mufassal, then the tax works out at a much higher percentage in Calcutta than in the mufassal. The incidence of proposed taxation, namely, 6 pies per unit valued at 2 annas 6 pies in Calcutta is approximately 20 per cent., whereas in the mufassal, where price of current is 6 annas per unit, the incidence, viz., 6 pies, is 8½ per cent., that is one-twelfth. Therefore, mufassal consumers are not hard it, and although I have every sympathy with the mufassal consumers because electricity itself is so dear, I must oppose the motion.

Mr. H. S. SUHRAWARDY: I regret that I have to oppose an amendment which on the face of it looks very reasonable. But I do so on the ground that I do not consider that the rates which are charged both in Calcutta and outside are economic rates. I do not admit for a

moment that the rates charged by the Calcutta Electric Supply Corporation are at all justified and that they cannot lower it. The amendment that has been moved almost amounts to an admission that the rates which are being paid by the Calcutta consumers are low in the sense that they cannot be still further lowered. If we support this Bill, we do so with a very great mental reservation and it is this: We desire Government as early as possible to appoint its promised enquiry committee in order that it may be able to go into the finances of the Calcutta Electric Supply Corporation and to examine how it is able not only to pay its original 8 per cent. dividend, but to pay bonuses and at the same time from the profits that it makes to increase its assets. I stress this point somewhat because only very recently a speech delivered by an electrical engineer in the United Provinces was reported in the papers when the advantages of cheap electricity for the mufassal area was brought out with a great degree of force. If the Calcutta Electric Supply Corporation does spend its reserves not in increasing its assets but in giving it back to the consumer in the matter of rebate, then surely it will give such an impetus not only to urban area but also within the urban area to certain agricultural pursuits that will benefit the people to a very large extent. Therefore, we do hope that Government have not lost sight of the promises that it made to the Council to appoint an Advisory Board with powers to enquire into the affairs of the Calcutta Electric Supply Corporation. There is one thing more, namely, with regard to the meters which the Corporation instal. That might also be a subject matter of enquiry in considering whether the meters which the Corporation are giving are true or not and whether by installing meters which are not quite true the Electric Supply Corporation is not making an undue profit. We have very little reason to doubt the veracity——

Mr. DEPUTY PRESIDENT: We are dealing with amendment No. 12 and I would ask you to restrict your speech to that.

Mr. H. S. SUHRAWARDY: I merely wish to stress on this motion that although we actually pay 10 pice to the Calcutta Electric Corporation per unit we really ought not to pay more than 7 pice per unit and that we are being fleeced. There is no reason for discrimination whatsoever. I was referring to meters and what was passing through my mind: there is another monopoly Corporation which also holds us at its mercy, namely, the Bengal Telephone Company.

Mr. W. H. THOMPSON: Sir, it does not arise in this connection.

Mr. H. S. SUHRAWARDY: I quite realise that Mr. Thompson would object because I was just going to point out that his meters are entirely wrong and we always pay for more calls than we make.

Mr. DEPUTY PRESIDENT: Will you stick to the motion itself?

The Hon'ble Sir JOHN WOODHEAD: This is another endeavour to exempt the mufassal, and again I must oppose it on the same grounds as I did on the previous occasion. The small consumer, as I have explained, in the mufassal has been exempted and the effect of the exemption in favour of the consumer using not more than 12 units in a place where the charge is say 5 annas per unit, is to exempt the consumer who does not pay more than Rs. 3-12 a month for his electric current. A very large number of the consumers in the mufassal have been exempted, the number varying between 40 and 80 per cent. That means on the average well over 50 per cent. of the persons who take a supply of electricity in the mufassal are exempted by reason of the 12-unit exemption. In view of the large number of persons who have been exempted, those who remain cannot be described as poor and I see no reason why these persons should not contribute their share, however relatively small it may be, to the additional taxation provided by this Bill. If the object of the amendment is to protect the struggling companies, I would again refer to the exemption in clause 3A which exempts new companies for a period of three years. I am still to be convinced that a gentleman who can afford to pay (say) about Rs. 4 for his electricity a month will return to the old kerosine lamp or something still worse, because he is required to pay an additional 6 annas or 7 annas a month. I am certain that he who can afford to pay a rate of say 5 annas to 6 annas for the electricity he uses, will not refuse to take electric currrent because it costs him another six or seven annas more a month. Again, I see no reason why well-established concerns like those at Dacca and Barrackpore where a large number of well-to-do people reside should be exempted; why these well-to-do people should not be required along with their confrérés in Calcutta to contribute half an anna on every unit of electricity they consume towards the finances of the province? Again, Sir, an exemption of the nature proposed in this amendment would be unfair to the private producer. The House will remember that there is no exemption in favour of a private producer. Why should not a private producer also claim an exemption of a similar nature? Further, the amendment says "a place where energy is supplied to consumers at a charge exceeding 5 annas per unit." I am not certain whether the charge referred to is the gross or the net charge. Again, what will happen if there are different rates, one rate for fans and one rate for electric lights, and the rate for fans is lower than 5 annas and that for electric lights higher than 5 annas. What will happen then? Again, suppose there is a large consumer in the area who consumes a large amount of electricity and thereby receives a favourable rate compared with the small consumer. The result of the exiitence of a large consumer paying a rate less than 5 annas in an area where the smaller consumers pay more than 5 annas would be

that everybody in that area would be liable to the surcharge. I hope, Sir, I have said sufficient to prove to the House that the acceptance of this amendment would lead to administrative difficulties. I oppose the motion.

Babu Khetter Mohan Ray's motion being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Barma, Rai Sahib Panchanan.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Hashem Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mitra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Poddar, Mr. Ananda Mohan.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Rai Mahasai, Maniendra Deb.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Ray, Chawdhury, Babu Satish Chandra.
Raut, Babu Hossani.
Ray, Babu Jitendra Nath.
Ray, Mr. Sarat Kumar.
Ray, Choudhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Sayta Kinkar.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Arthur, Mr. G. D.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Basir Uddin, Khan Sahib Maulvi Muhammed.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Basu, Mr. S. K.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Dr. Jogendra Chandra.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Das, Babu Gangaprasad.
Dutt, Mr. G. S.
Ferguson, Mr. R. N.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Hoque, the Hon'ble Khan Bahadur M. Azizul.
Hudson, Mr. J. B. V.
Human, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Lesson, Mr. G. W.
Lockhart, Mr. A. R. H.
Maguire, Mr. L. T.
Martin, Mr. C. M.
McCluskie, Mr. H. T.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukhopadhaya, Rai Bahadur Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Mukherji, Rai Sahib H. M.
Nag, Reverend G. A.
Nag, Babu Sak Lal.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Raheem, Mr. A.
Ray Chowdhury, Mr. K. G.
Redditt, Mr. S. W.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Sudhirwar Singh.
Sandeutullah, Maulvi Muhammad.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 39 and the Noes 55, the motion was lost.

Mr. ANANDA MOHAN PODDAR: Sir, I beg to move that in the proviso to clause 3, after sub-clause (c) (iii), the following be added, namely :—

"(*iv*) Educational institutions."

Sir, I think it will be proper if the educational institutions are exempted from the operations of this Act. The financial condition of most of our schools are bad and if any new tax is imposed on them, it would be a source of hardship both to the students and to the institutions. Sir, very few schools have electric connections, and so if the educational institutions are exempted from the operations of this Bill, I do not think it will materially affect the object of this Bill.

With these words I commend my motion to the acceptance of the House.

The Hon'ble Sir JOHN WOODHEAD: Sir, I am afraid I must oppose this amendment. I see very little justification for exempting these institutions from general taxation. After all, a question of principle is involved. Educational institutions are usually not exempted from taxation. They pay municipal taxes; they pay indirectly custom duties on all imported articles; for instance, they pay the kerosine duty on the kerosine they use. As I have said before, if the schools using kerosine are required to contribute through the import and excise duties to the revenues of India, there is no reason why schools using electric lights and fans should not also contribute. They also pay indirectly the tax on petrol used in school buses. On principle I must oppose this amendment. But if, as regards *aided* schools, it is found that this duty places a burden on their finances which they cannot meet, then instead of giving these aided institutions a hidden subsidy by exemption from this taxation, the proper way is to assist them by a direct grant, given specifically to meet this extra burden, provided of course it is impossible for them to meet it from their ordinary income. I oppose the amendment.

The motion was then, by leave of the House, withdrawn.

The motion that clause 3 stand part of the Bill was then put and agreed to.

Clause 3A.

Kazi EMDADUL HOQUE: I beg to move that in clause 3A(*1*), line 3, for the words "three years" the words "five years" be substituted.

Sir, the Bill, clause 3A(*1*), makes an exemption in the case of newly formed undertakings so that these new enterprises may enjoy without payment of the tax for three years. But, Sir, I am not free from misgiving, as my friend Mr. Shanti Shekhareswar Ray has pointed out,

that the full benefit of this exemption will be derived by those undertakings which will be set on foot after the passing of this Act. As has been pointed out by Mr. Ray, in the course of these three years the financial position of the Government may improve and the Hon'ble the Finance Member may come forward with another Bill for the extension of the operations of this Act. Even if the operations of this Act be not extended beyond three years as is contemplated in this Bill, still the full benefit will be enjoyed by those undertakings that will be started henceforth. But there are some private enterprises which have already been set on foot and in fact there are already electric companies in some districts, and it may be that they are nearing the completion of their third year. Even if only three years' exemption be granted to them, it will not be sufficient for these new undertakings to stand upon a sound footing, as it is pretty certain that whatever business is started, it cannot make any profit within the first few years. Therefore, they will require something more. We have seen in many cases that the cinema companies had to wind up within a few years from the date they were started because they could not make any profit. Whatever concern one might start, he would have to incur some loss at the beginning. Therefore, I think three years' exemption is not sufficient and at least an exemption for five years from the beginning should be granted.

With these words I commend my motion to the acceptance of the House.

The Hon'ble Sir JOHN WOODHEAD: Sir, the proposal is to extend the exemption in favour of newly-formed companies from three years to five years. I must oppose it. It seems to me that any well-managed company should be able to establish itself on a sound basis within a period of three years. As I have said before, in view of the exemption limit, I am entirely unconvinced that a consumer who is now taking electric current from a mufassal electric supply company will refrain from doing so because he is required to pay the surcharge. In view of the convenience and amenities which flow from the use of electric lights and fans, I feel certain that no one in the mufassal, having regard to the exemption limit, will refrain from taking electric current because it will cost him a few annas more a month. I oppose this amendment.

The motion was then put and lost.

The motion that clause 3A stand part of the Bill was then put and agreed to.

Clauses 4 to 9.

The motion that clauses 4 to 9 stand part of the Bill was then put and agreed to.

The First Schedule.

Mr. P. BANERJI: Sir, I beg to move that in the First Schedul in item No. 1, in column 2, for the entry "6 pies for each unit of energy consumed," the following be substituted, namely:—

"3 pies for each unit up to 30 units,

4 pies for each unit exceeding 30 units up to 60 units,

6 pies for each unit exceeding 60 units.

of energy consumed in any one month."

My object in making this sliding scale is obvious. The Hon'ble Member of course has not been convinced as he says every time, but so far as the previous motions are concerned I may also say that I too am not convinced by the arguments that he himself has advanced when he says that a person paying Rs. 4-8, at the rate of 6 annas per unit, is not to be taxed. But at the same time if we take into consideration the unit consumed in Calcutta, we find that a person paying more than Re. 1-14 has to pay 2 pice surcharge. I do not know, Sir, how the Hon'ble Member can defend himself, nor do I understand their wonderful logic, nor have we the last say after them. We often hear, Sir, that Government want to remove anomalies. May I ask why this anomaly is here? I could understand it very well if the tax was on the basis of, say, 2 pice on a rupee or 2 farthings on a rupee. I could have understood that and there would have been no anomaly. But, Sir, to say that a person who pays more than Re. 1-14 in the town of Calcutta will have to pay a surcharge of 2 pice while any person in the mufassal who pays only more than Rs. 4-8 will have to pay this surcharge is indeed an anomaly. The Hon'ble Member has also convinced himself that the people in the villages will neither take to kerosine oil or cut off their electrical connections to avoid the surcharge of 2 pice. But I know, Sir, and it has also been mentioned by Rai Bahadur Satish Chandra Mukherji that in Chandernagore and in Serampore, some consumers have actually cut off their connections. But my point is whether the basis of taxation should be the unit of electric current consumed both in the mufassal, where the income of the people is admittedly far less than that of the Calcutta people, and where the rate is about three times that of Calcutta, and not the money actually paid for their electricity bills. Will the suggested method not be greatly anomalous? But, Sir, the Hon'ble Member will remain unconvinced, whatever argument we may put forward, and we have no remedy. The only remedy, however, for this tax would be to cut off all connections, but the Hon'ble Member knows quite well that that is not to be and that is why he is so insistent and that is the reason of his threat; so that, although we as representatives of the people pointed

out to him that the people were so much overburdened with taxation already that they could not pay more he would not listen to us. The amount on which the surcharge should be based should have been made uniform throughout the province and not Re. 1-14 in Calcutta and Rs. 4-8 in the mufassal. Electricity is no longer a luxury, but an indispensable necessity, and I consider it to be in the fitness of things that those who consume less should pay at a lower rate. The Hon'ble Member seems to think that 12 units is the average consumption of a middle class *bhadralok*, but, Sir, that is not so. A middle class *bhadralok* consumes from 20 to 40 units a month, while men of some means generally consume about 60 units. In the minutes of dissent to the Select Committee's report, so many suggestions have been made to change the amount of the surcharge, but none of them have been accepted. My suggestion is most reasonable, and it is that a person who consumes 30 units certainly ought to pay at a lower rate than the man who consumes 60 units, because the Hon'ble Member's principle was that those who could pay above a certain amount of money as their electricity bill could easily pay a surcharge of 2 pice for each unit and those who pay below a certain amount should not be made to pay. I say, Sir, the people in the villages who usually pay Rs. 4-8 for their electric current, are not rich men and they will be very hard hit by this surcharge. That is why I consider that it is in the fitness of things that there should be a graded scale of tax, and I think this is a most reasonable suggestion and the House should accept it.

Mr. L. T. MAGUIRE: Sir, I rise to support this motion. It seems to me very reasonable that people of small income should be treated as lightly as possible. The Hon'ble Member when he introduced this Bill along with the other Bills informed us that it was going to help very little towards balancing the Budget, but that it was only of necessity that he had to do so, inasmuch as the Legislative Assembly asked Bengal to look round and get as much as possible. If this amendment is accepted, it is not going to make a substantial difference in the income any way. Take a man whose consumption of electricity is 30 units. He cannot work a fan and just have 30 units only. He would just be able to have his light only. Now, electric light is an absolute necessity in a city like Calcutta. We have got accustomed to it and simply there is no question of cutting off our connection for this surcharge. We simply will have to grin and bear. Is it not fair to charge the man who uses the minimum current and let him go as lightly as he can and make him pay 3 pice up to 30 units as against 4 pice in the case of the man who can use much more than that? This will do no harm to Government's income, and I believe nobody, not even the Central Legislature, will take exception to it. I strongly support the motion and hope the House will carry it.

The Hon'ble Sir JOHN WOODHEAD: Sir, this amendment proposes a sliding scale of 3 pies for each unit up to 30 units, 4 pies for each unit exceeding 30 units up to 60 units, and 6 pies for each unit exceeding 60 units. A sliding scale of this nature will certainly mean a considerable loss in revenue—it is impossible to calculate how much, but it will undoubtedly not be inconsiderable. In Calcutta the rate charged is low as compared with the rates elsewhere; it is now 2 annas 6 pies per unit, and it was 2 annas 9 pies per unit before the 1st of January of this year. The effect of the surcharge of half-an-anna, therefore, will be to make the rate only one pice higher than it was before the 1st of January last. That is a very small additional amount to ask the consumer to bear. It should be particularly remembered that in the Calcutta area, even with this surcharge the rate will be only 3 annas per unit, which I believe is still one of the lowest, if not the lowest, in India,

Then, Sir, so far as the mufassal is concerned, as I have explained, the majority of the consumers will get the benefit of the 12-unit exemption. The percentage varies, but the average is about 60 per cent., that means 60 per cent. of the persons outside the area supplied by the Calcutta Electric Supply Corporation will be exempt from the tax. Then, again, there is another objection and that is one of administration. It will be a very difficult task to prepare bills, working out the charges at the rate of 3 pies for each unit up to 30 units, and 4 pies for each unit exceeding 30 units, and so on. Such a sliding scale will introduce administrative complications, and will make it difficult for us to check the realisation of this tax. I oppose the amendment.

The motion was put and lost.

Mr. P. BANERJI: Sir, I beg to move that in First Schedule, in item No. (2), in the second column, for the figures "2, 3, 4, 6 and 1," the figures "1, 2, 3, 4 and ½," respectively, be substituted.

Sir, this is another of my most reasonable suggestions to Government and it relates to premises where the consumption of energy is unmetered, and it takes place only in small shops, namely, *pan* shops, *biri* shops, etc., which have unmetered small lamps of 30, 40, 60 watts up to 100 watts. Here, even the Government are already charging per mensem 2 annas, 3 annas, 4 annas, 6 annas, and 1 anna, respectively, for lamps of different power. I consider these rates to be very exorbitant, and I propose, therefore, only a reduction of about 50 per cent., viz., 1 anna, 2 annas, 3 annas, 4 annas, and ½ anna, in substitution of the rates proposed in the Schedule, to which I have already referred. Sir, this is a very reasonable suggestion, considering the fact that even the poorest people have to pay this rate. With these words, Sir, I commend my amendment to the acceptance of the House.

The Hon'ble Sir JOHN WOODHEAD: Sir, I thought that this amendment was consequential to amendment No. 20, which has not been accepted by the House; because, Sir, the rates in part (2) of the First Schedule are in accord with the rate of 6 pies per unit in item (1) of the First Schedule. So, Sir, as the House has not accepted Mr. Banerji's amendment, No. 20, there is no justification for this amendment; the rates in item (2) must be in accord with the rates in item (1). It may be of interest to Mr. Banerji to know that in the Calcutta area of supply no person takes electrical energy in this manner; the system is adopted to a small extent in some of the mufassal towns. Sir, I oppose the amendment.

The motion was then put and lost.

The motion that the First Schedule stand part of the Bill was put and agreed to.

Second Schedule.

Mr. DEPUTY PRESIDENT: If there is no objection, I should like to have one general discussion on the various amendments to this Schedule. I would, however, put the amendments separately.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I beg to move that in the Second Schedule for item No. (7), the following be substituted, namely:—

"(7) Any consumer resident of Calcutta using not more than twelve units in any one month, but in case of consumers resident outside Calcutta using not more than twenty-four units in any month."

Sir, the exemption, as it stands, exempts every consumer who does not consume more than 12 units per mensem. The object of this amendment of mine is to draw attention to the inequitable rates prevalent in the various parts of this province. The Hon'ble Member has just said, in opposing Mr. P. Banerji's amendment to the First Schedule, that the Calcutta rate is extraordinarily low.

The Hon'ble Sir JOHN WOODHEAD: No, Sir. What I said is that it is low in comparison with the rates prevailing in the other parts of India.

Rai Bahadur SATISH CHANDRA MUKHERJI: Very well, Sir. Let me illustrate my point by referring to my town of Hooghly-Chinsura. The East India Traction Company, by which name the Company is carrying on its business, supplies us electric energy by purchasing it from Gouripore at 11 pice per unit—I understand it is now 10 pice per unit. While they are purchasing electric energy at

that rate from the other side of the river, they are charging us 6 to 8 annas per unit. Can it be said after this that my amendment is a useless one? I have moved it for the purpose of saving the poor and helpless people who have got to pay this high rate and who cannot make their influence felt. So, Sir, if the Calcutta rate is low, as the Hon'ble Member has himself admitted, and if the limit of exemption be fixed at 12 units in the town of Calcutta, can it be unreasonable to ask for an exemption of 24 units in the case of non-Calcutta areas? With that object in view, Sir, I have tabled this amendment, and I commend it to the acceptance of the House.

Mr. P. BANERJI: Sir, I beg to move that in the Second Schedule, in item No. (7), line 1, for the words "twelve units," the words "twenty units" be substituted.

Sir, as I have already pointed out, 12 units are gnerally consumed by practically a very small number of people; even the poorest people consume more than 12 units per month. So, Sir, I have suggested 20 units as the limit for exemption; and that also is a very small figure. I do not see any reason why Government should not accept such a reasonable suggestion. In view of the many amendments which have been tabled on this matter, I think that Government will come forward with a suggestion whether they will accept a limit of 20, 18, or even 15 units. With these words, Sir, I commend my amendment to the acceptance of the House.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I formally move that in the Second Schedule, in item No. (7), in line 1, for the words "twelve units," the words "eighteen units" be substituted.

Kazi EMDADUL HOQUE: Sir, I beg to move that in the Second Schedule, in item No. (7), in line 1, for the words "twelve units" the words "fifteen units" be substituted.

Sir, in moving this amendment I beg to submit that this is the least that I can ask for on behalf of the poor people who can ill-afford to pay the surcharge. I do not think, Sir, that Government have any ground for opposing this amendment of mine. In fact, I think they should accept it. With these few words, Sir, I move the amendment.

Kazi EMDADUL HOQUE: Sir, I beg formally to move that in the Second Schedule, in item No. (8), lines 4 and 5, for the words "twelve units" the words "fifteen units" be substituted.

Mr. S. M. BOSE: Sir, I beg to support amendment No. 29. I think that the limit of exemption, as it stands at present, is too low. As a matter of fact, it practically means limitation of consumption of

electric energy to such an extent as not to allow of more than one light of low candle-power being used by anyone. Sir, nobody in his senses can think of having with a meter only one light in his house, or place of business, or shop. This exemption is absolutely useless, and it means that there is no exemption at all. A man must have at least two lights, if not more, with a meter. And if the figures "12" be changed to "15," then he can have two lights; this will make the exemption real and not a sham one.

The Hon'ble Sir JOHN WOODHEAD: Sir, there is a large number of amendments relating to this question of the limit of 12 units.

As regards the Rai Bahadur's amendment—the first of this batch—for the exemption of all consumers using not more 24 units in any one month in the mufassal, I wonder if he has realized what the result of this exemption will be. It will mean that in any place where the rate charged for electric energy is 6 annas per unit, anybody whose bill does not exceed Rs. 9 per month will be exempt from paying the surcharge. Whether the exemption limit should be 12 units, or 15 units, or 18 units, or 20 units, or 24 units, is a matter of opinion. We adopted the figure of 12 inasmuch as it has been adopted in Bombay, where the rate charged for electricity is certainly higher than that charged in the Calcutta area. Although it will mean the loss of a certain amount of revenue to Government—and I, certainly, do not wish to forego revenue—I am prepared to go as far as this, viz., I will accept on behalf of Government the amendment which proposes the exemption of consumers using not more than 15 units; but further than that I am not prepared to go. In amendments Nos. 29 and 30 (as well as in Nos. 32 and 33) this exemption limit is proposed. The acceptance of an exemption limit of 15 units will involve another consequential amendment to *Explanation* (3) of the Second Schedule, in the second line of the explanation, where for the words "twelve units" the words "fifteen units" will have to be substituted. After the amendments I have mentioned above have been accepted by the House, I shall formally move this consequential amendment.

The following motions were then, by leave of the House, withdrawn:—

That in the Second Schedule for item No. (7), the following be substituted, namely:—

"(7) Any consumer resident of Calcutta using not more than twelve units in any one month, but in case of consumers resident outside Calcutta using not more than twenty-four units in any month."

That in the Second Schedule, in item No. (7), line 1, for the words "twelve units," the words "twenty units" be substituted.

That in the Second Schedule, in item No. (7), in line 1, for the words "twelve units," the words "eighteen units" be substituted.

The following motions were then put and agreed to:—

That in the Second Schedule, in item No. (7), in line 1, for the words "twelve units," the words "fifteen unts" be subetituted.

That in the Second Schedule, in item No. (8), lines 4 and 5, for the words "twelve units" the words "fifteen units" be substituted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg to move that in the Second Schedule, in *Explanation* (*3*), in the second line, for the words "twelve units" the words "fifteen units" be substituted.

The motion was then put and agreed to.

The motion that the Second Schedule, as amended, stand part of the Bill was put and agreed to.

Preamble.

Mr. DEPUTY PRESIDENT: Amendment No. 34 fails as the House has decided otherwise on items 5 and 6.

The question before the House is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Sir JOHN WOODHEAD: I beg to move that the Bill, as settled in Council, be passed.

Mr. H. R. NORTON: Mr. President, Sir, I rise to oppose this Bill on the grounds of unfair taxation. I agree with Government that taxation is needed, but this particular Bill is a very obnoxious one.

We are told that it is working in Bombay, but is there any need for us to follow Bombay. Surely Government can find other methods of taxation than the petty Bill which the House is now requested to pass.

It is unfortunate that these Bills coincide with the restoration of the cuts in pay. The only redeeming feature is that these Bills were under preparation before the cuts in pay were decided on for most of the House are well aware that electricity taxation was spoken of just after the New Year, though the actual Bills were brought before the House for reference to a Select Committee only a short time before the Council began its session—the hush hush policy of the Government.

This extra taxation is unwelcomed considering the present depression in trade. Some will say the depression has lifted. There certainly is a better atmosphere, but it is going to take a long time to make up the losses which the firms have sustained during the depression period. Government are well aware of the agitation that has been carried on during the past 18 months in Calcutta against the high charge for current in this city and the surrounding area. I will not delve into the merits or demerits of this campaign except to point out that it succeeded to the extent of securing a reduction of 1 pice per unit. No sooner has this been accomplished than Government, who had evidently been biding its time, steps in and proposes by a 20 per cent. tax to make the cost of current even more expensive than it was before the reduction. The allegation that current is cheaper in Calcutta than anywhere else in the world has been made so often that it has been accepted by many as being entirely accurate. Here again I do not propose to enter into the controversy, but to confine myself to the fact that cheapness is purely relative. In the case of, for example, England, the poor man's house and many others are usually fitted with gas, but in any case it is only a question of illuminants, and on a salary of even £2 per week a margin can be allotted for light. What is the case in Calcutta? Those who have been the hardest hit by the depression are those who can least afford an increase in their living expenses, small though it may be. They are those to whom the blessing of good light and the amenity of an electric fan is one of the few necessary luxuries they can afford. Yet Government say its new taxes have been devised so as not to affect the poorer classes—a fallacy. It is impossible to conceive how this conclusion has been reached, as what the Government really proposes is to make it impossible for the really poor ever to experience in their own homes the good light that is essential to any improvement in social conditions. Not only that, but they are denying permanently to the poor that small relief from the intense heat that Government itself, by its annual migration to the hills, is so careful to avoid. We have just heard in the House that 15 units are to be free of tax. In my opinion it should be 20 units. Impose this tax if you will and no one will doubt, but that if it is imposed, it will never come off in spite of the Bill being for three years' duration. But do not ask the House to accept this tax on the grounds that it will not affect the poor. On the contrary, it is on the poor that it will fall the hardest and to the very poor it acts as a permanent deprivation of one of the greatest blessings of mankind.

Now, Sir, this tax is all the more objectionable in that it is imposed on the light and fan rate, leaving the bulk users of the current consumed entirely untouched. The principle is wrong. Admittedly we do not wish to hamper industry, but no argument can be advanced on behalf of such a tax on the private consumers that does not apply with greater force to the industrial user.

I understand that out of 220 million units of current used, only 34 million units are affected and that 34 millions are paid for at the highest rate. Why should the users of the other 190 million go scot-free?

Among the consumers of the 34 million units there are many who have to use current in connection with their business, and it is as important to them as to the industrials. I refer to the shops and stores of which there are hundreds in Calcutta.

I represent on the Council the European trading community of Calcutta, and it is also on their behalf I oppose this Bill, and would point out to Government that the electricity tax is the last straw to an already overburdened taxed community. The European trading community have large vested interests in Calcutta and as a body they pay lakhs of revenue as customs duty to the Central Government. I know this is nothing to do with the Local Government, but if they would help us to get more consideration from the Central Government, we would then be in a better position to bear local taxation. There is nobody more severely hit by taxation than the trading community of Calcutta both European and Indian, and I include the Indian traders in my appeal.

I will here enumerate to the House a few of the taxes the trading community has to put up with and adversities that we have to contend with, and if Government after hearing them, think the taxation just, I have no more to say.

Each trader has to pay a municipal tax, municipal rates and taxes, customs duties ranging from 20 per cent. to 100 per cent. as against in the old days an average of 5 per cent. This exorbitant increase of customs duties has encouraged to a great extent smuggling, not only through neighbouring ports where customs duties are not leviable, but by passengers bringing out goods for other people and for re-sale and passing them through the customs as personal belongings, and it is time the Local Government acted on behalf of the trading community of Calcutta to obtain redress for them, a stricter watch and search should be made by customs officials. We do not refer to passengers bringing in legitimate personal belongings; they are fully entitled to do so, but to bring in goods for friends or for re-sale should be put down by a firm hand for by this smuggling Government are losing a large revenue. I point this out in case in the near future customs duties became local revenue.

We also have to pay a Fire Brigade tax because we store small quantities of wood to make packing boxes with and recently the Corporation have unearthed an old Fire Brigade Act of 1893, the Act which has been long forgotten by the people. By that Act the Corporation is entitled to impose a 10 per cent. tax on the rental value of

premises in Calcutta to display furniture for sale; this is scandalous. There is income-tax and super-tax also. Now, Sir, to enable us to do sufficient trade to pay all the foregoing it is natural that we must have up-to-date stores, well cooled and lighted to do our trade in, and now Government proposes to tax us still further in the current consumed, current which is as essential to us as it is to the great industrialists, and mind you we pay the highest rate for our current, and I consider it scandalous and unnecessary tax for the traders of Calcutta to pay.

Another hard hit industry will be the cinema industry which is already hard hit by heavy taxation on its films, taxes on all seats, and now they are to be taxed 20 per cent. on the electric current they consume, and like industrial concerns the cinemas cannot work without current. I am afraid that Government in their desire to extort money to balance their Budget, have in the case of electricity imposed this tax in an indiscriminate manner, and it is scandalous that it should be imposed on only one-sixth of the consumers of electric current.

As previously stated, there is no doubt that the Bill will become law, but I am afraid Government are too sanguine as to the amount they will collect. Have Government thought of the many ways of evasion of the tax? I do not mean by evading payment; I mean by economical measure, for instance, I can and have reduced my consumption by one-third as an experiment and what I can do, others can do; economy will automatically mean that there must be no wastage of current, lower powered lamps will be used to reduce the amount of tax payable, the result being less revenue for Government and still less sales for the Electric Supply Company. With these words I oppose the motion.

Mr. NARENDRA KUMAR BASU: Sir, I beg to join with Mr. Norton in opposing the motion of Sir John Woodhead. When these taxation Bills were introduced in this Council a certain section of the members of this House, that is to say many of the non-official members of the House, were opposed to these Bills being introduced. The difficulties of taxation at this moment were pointed out to the Hon'ble the Finance Member and, if I understood his reply aright, his reply was that he disliked these measures as much as anyone else, but that in the circumstances it was incumbent upon the Government of Bengal to introduce these taxation Bills at this inopportune time. The reason given for this compulsion upon the Local Government to introduce these Bills, so far as I can understand it, is the fact that if we did not have the set taxation measures at the present time, we would be putting a weapon into the hands of those members of the Legislative Assembly who do not like additional grants to Bengal as well as into the hands of the Committee which may come out in the near future to adjust financial relations between the Federation and the Province. We were asked that this policy must be accepted as a necessary evil and

that any criticism or opposition to these Bills would be tantamount to putting a weapon into the hands of what I may conveniently call our enemies. I submit that that is absolutely no criterion to judge these Bills by. The proper criterion for this Council and for the members of this Council, non-official as well as official, is whether Bengal is able to bear the burden at the present moment. That, Sir, has been admitted by successive Finance Members of the Government of Bengal to have but one answer and that an answer in the negative. It is no use for the Hon'ble the Finance Member to say that this is a very unpalatable pill, you must swallow it and show a smiling face, because otherwise the jute tax will be out of your hands. I submit again, as I submitted when I opposed the introduction of these measures, that I refuse to believe that if justice, if truth is on our side, if we are really entitled to the jute tax, it does not matter whether we are able to impose these taxes on the people of Bengal and enable the Government of Bengal to show a little less of the deficit, whether these 20 or 24 lakhs are wiped out of the deficit or not it does not matter. What matters is that our right to the jute tax is unassailable. Our right to the jute tax has been accepted by the Joint Parliamentary Committee. It is in the Government of India Bill which is now before the House of Commons. I have not followed the debate on that Bill, and I do not know whether that particular section has yet been accepted by the House of Commons or not, but judging from what I hear there is very little doubt that that section will be accepted by the House of Commons, because our right to the jute tax stands on a firm footing. It does not matter, as I have said, whether we impose an extra tax of Rs. 24 lakhs or not, our right to the jute tax is supreme and we shall get it. That, Sir, is the general principle on which I oppose this Bill.

Then as regards this particular Bill, I submit that when it was first introduced into the Council, it was remarked by several members from several parts of the House, that the principle on which the taxation was imposed in this Bill, that is to say, the taxation of domestic consumers only was wrong. It was pointed out then, as it has been pointed out to-night by Mr. Norton, that by a very small addition to the charges for energy, the addition of even half a pie per unit, you will certainly get very much more in return than you are expected to get by a charge of 6 pies on the domestic consuumers. Even in the case of lights and fans, people who are really favoured now by the Calcutta Electric Supply Corporation, I mean the Government and the other consumers who are given preference, whether due or undue preference I do not know, are exempted from the purview of this Bill. It is only the domestic consumers who pay comparatively small amounts that are being charged. I submit that on no principle of taxation can this additional burden on the poorer section of the consumers be supported. I submit that it is open to the House even now to say that we shall not have this Bill and we shall throw it out.

Mr. P. BANERJI: Sir, we have now a full dress debate on this Bill and the opposition has been led by Mr. Norton. Sir, the sufferer knows best where the shoe pinches. Mr. Norton in his forceful speech has made this clear, and it should be an eye-opener to the Hon'ble Member who should even now reconsider the position. Sir, if I were him, I would have at once withdrawn this Bill. The Hon'ble Member should not disagree in the arguments that have been put forward by Mr. Norton. But, Sir, to our utter misfortune we always find the Government trying to bring about a cleavage in the division. May I enquire of the Hon'ble Member whether he is still unconvinced of the arguments put forward by Mr. Norton and Mr. Narendra Kumar Basu? There are many things to be said against this Bill, but after the volley of the arguments that have been put forward, I would request the Hon'ble Member and the European Group, particularly Mr. Thompson, the leader of the European Group, to reconsider the matter so that in future, so far as the other measures are concerned, Government may think twice before bringing forward these obnoxious Bills.

Mr. W. H. THOMPSON: Mr. Deputy President, Sir, that is a direct challenge which cannot go unanswered. It is common engineering practice when you build a boiler to fit it with a safety valve. When the pressure is too high, the valve lifts and blows off the steam. That has happened in the European Group this afternoon, and I will ask Sir John Woodhead and the other Members of Government not to laugh at that but to take it in all seriousness. Alarm fuses are fitted on the other side of the House and two of these alarm fuses have also blown. Really the criticism that has been made is criticism of the incidence of these taxes. In promising, when these Bills were introduced, that the European Group would support Sir John Woodhead in his logical argument for the necessity of the introduction of these Bills, I drew attention to the incidence of this new taxation. Deliberately Sir John Woodhead has taxed Calcutta and left aside the mufassal. At least 80 per cent. of these new taxes will fall on Calcutta. The cultivator and the poor man outside perhaps were rightly left out, but not, Sir, the rich man outside Calcutta. Death duties, for instance, are paid in Calcutta. There is no justifiable reason why death duties should not be paid by the landlords of Bengal. It would have been easy, while we were amending the legislation in regard to death duties, to extend them to the inheritors of landed property otherwise than by will. A death duty is one of the easiest taxes to pay. It is like the tax on treasure trove. In both cases the heir or the lucky finder gets something which he did not have before, gets something for nothing less only what Government takes by way of taxation. Like treasure trove, inheritance is something for nothing and deserves to be taxed. But taxation Bills may only be introduced by Government and the [illegible]

Woodhead decided to tax Calcutta and the arguments which he put forward justifying his taxation Bills to our logical minds appeared to be reasonable, though Mr. Abul Kasem the other day referred to the brains of Clive Street as being incapable of logic—I am not sure of his exact words but that was the effect. While giving Sir John Woodhead the assurance that this group as a whole will not go into the lobby to throw out this Bill, I do ask him in the name of Calcutta to note that fuses have blown on this occasion and would impress upon him the necessity, when he does this again, to tax not only Calcutta, and not to leave out his friends, the landlords.

Maulvi ABDUL HAMID SHAH addressed the Council in Bengali. The member is understood to have spoken against the motion.

The Hon'ble Sir JOHN WOODHEAD: Sir, I do not propose at this stage to detain the House very long. I have dealt during the early part of the Session with many of the arguments which have been put forward to-night. Perhaps it is inevitable that these arguments should be put forward again and again, but it is not inevitable that I should reply to them in detail again and again. The reasons which have led us to bring forward these taxation Bills are well known. The main reason, as I have said already, is that the Government of India with the approval of the Central Legislature decided to make us a grant of half of the jute duty in advance of the new constitution, provided that we did everything to assist ourselves. And we introduced these taxation measures because we felt that that was one way in which we could assist ourselves. Then, Sir, as regards the question whether Bengal can bear this extra taxation. The total amount we hope to receive from these taxes is about Rs. 24 lakhs and surely it is very difficult to urge that a province as large as Bengal with a population of 50 millions cannot bear additional taxation to the extent of Rs. 24 lakhs. Mr. Norton ranged over a wide field, criticizing the high customs duties, high Fire Brigade charges, municipal taxes, etc. Sir, I sympathise with him to some extent as regards the taxes which his particular class of business has to bear, but after all I cannot look at taxation from the point of view of one class alone. And Mr. Norton is not the only one who complains about taxation. I myself get a shock when I am required to pay a very considerable sum as income-tax towards the end of the year. But as I have said before, even with the surcharge the charge for electric current in Calcutta will still compare very favourably with other rates in other parts of India, and so far as the poor consumer is concerned the Council has raised the exemption figure from 12 to 15 units. Two annas 6 pies is the rate per unit in Calcutta; that means that everybody who pays Rs. 2-5-6 per month or less for his electricity is exempt. In the mufassal, Sir, the position is still more

favourable, for instance, 15 times × 6 annas is Rs. 5-10, and that means that everybody who pays not more than Rs. 5-10, where the charge per unit is 6 annas, is exempt from this tax.

Finally, one word as regards the surcharge not applying to energy used for industrial purposes; the reason for this exemption is a desire to avoid placing an additional burden upon the actual producer of goods, an additional burden on industry to avoid placing manufacturers in this province at a disadvantage compared with their competitors in other provinces, in other parts of India and in other parts of the world. Again, it must be remembered that electrical energy used for power purposes has to compete with other forms of power, with steam and oil.

The motion that the Bengal Electricity Duty Bill, 1935, as settled in Council be passed, being put a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emadeddin.
Arthur, Mr. G. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Kedar Chandra.
Bashir Uddin, Khan Sahib Maulvi Muhammad.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Basu, Mr. S. K.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Allimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Cohen, Mr. D J.
Cooper, Mr. G. G.
Das, Babu Guruprosad.
Dutt, Mr. S. S.
Ferguson, Mr. R. N.
Gilchrist, Mr. S. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Guthrie, Mr. F. G.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nasham Ali.
Khan, Maulvi Tamizuddin.
Lamb, Mr. T.
Lemon, Mr. B. W.
Martin, Mr. C. M.
Mittar, Mr. S. C.
Mittar, the Hon'ble Sir Brojendra Lal.
Mullick, Mr. Mukunda Behary.
Mukherji, Rai Sahib M. M.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Babu Khettar Mohan.
Ray Chowdhury, Mr. K. C.
Redcliffe, Mr. S. W.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Steven, Mr. J. W. H.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Armstrong, Mr. W. L.
Banerji, Mr. P.
Barma, Babu Promhari.
Barma, Rai Sahib Panchanan.
Basu, Mr. Narendra Kumar.
Choudhuri, Babu Khuhuri Mohan.
Choudhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nurul Absar.
Dutt, Rai Bahadur Dr. Haridhan.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Higgins, Mr. L. T.

Malik, Mr. S.	Roy, Mr. Shanti Shekhareswar.
McCluskie, Mr. E. T.	Roy, Babu Hariharan.
Mitra, Babu Sa[illegible].	Roy, Mr. Saral Kumar.
Momin, Khan B[illegible], Mr. M. [illegible]hammad Abdul.	Sadatullah, Maulvi Muhammad.
Mukherji, Rai B[illegible] Saradish Chandra.	Sahaya, Rai Bahadur Satya Kinkar.
Nag, Babu Suk Lal.	Samad, Maulvi Abdus.
Norton, Mr. H. R.	Sen, Rai Sahib Akshoy Kumar.
Qasem, Maulvi Abul.	Shah, Maulvi Abdul Hamid.
Ray, Babu Nagendra Narayan.	

The Ayes being 57 and the Noes 31, the motion was carried.

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

The Court-fees (Bengal Second Amendment) Bill, 1935.

The Hon'ble Sir JOHN WOODHEAD: I beg to move that the Court-fees (Bengal Second Amendment) Bill, 1935, as reported by the Select Committee, be taken into consideration.

Sir, the only amendment made by the Select Committee to which I need draw the attention of the House is sub-clause (*i*) of clause 1, which limits the operation of the enhanced court-fees to a period of three years.

The motion was put and agreed to.

Clauses 1, 2 and 3.

The question that clauses 1, 2 and 3 stand part of the Bill was put and agreed to.

Clause 4.

Mr. SARAT KUMAR ROY: Sir, I beg to move that in clause 4(*b*), in lines 5 to 24, in the second column, for the portion beginning with the words "when such amount or value exceeds two lakhs and fifty thousand rupees" and ending with the words "which is in excess of five lakhs of rupees" and for the corresponding entries in the third column the following be substituted, namely:—

"When such amount or value exceeds two lakhs and fifty thousand rupees, on the portion of such amount or value which is in excess of two lakhs and fifty thousand rupees up to five lakhs of rupees	...Five and a half per centum.
and	
When such amount or value exceeds five lakhs of rupees on the portion of such amount or value which is in excess of five lakhs of rupees ...	... Six per centum."

Sir, the Hon'ble Member in charge of this Bill has stated that its object is to provide additional revenues for Bengal to remove

deficit in the Budget; and he has sought to accomplish this by revising the scale of fees for probate and succession certificates, payable by those only whose assets exceed two lakhs and fifty thousand rupees, the levy remaining the same with regard to others, as the scale in such cases remains unaltered.

Sir, it is difficult for me to conceive why this particular section of the population has been selected to bear the additional levy. I may significantly point out that although their number is comparatively small, yet the aggregate amount they contribute as such fees is considerable. And they do so not simply because they are more fortunate than others, but also because, the rate at which they have to pay such fees is much higher than that for others. That itself is an injustice to them. To ask them to pay such fees at even a higher rate than now would be doing them a still greater injustice.

So, Sir, although I do not question the expediency of levying fresh taxation for removing the deficit in the Budget, if such a course is really unavoidable, yet I must condemn this method of singling out a particular section of the people and victimising them to the exclusion of others, particularly in view of the circumstances that even under the existing law, they are paying at a higher rate than others.

Sir, there is another aspect of the question which also deserves our careful consideration. In our country, the tax on transfer of negotiable or mercantile securities is very light, while that on formal assurances is heavy. The stamp duty payable on transfers of Government, or other valuable securities which are negotiable, is rather insignificant in comparison with that levied on transfer of landed property. A person possessing such securities may, in his lifetime and just before his death, distribute his assets amongst the heirs according to their legal shares. The whole amount of the duty may thereby be avoided. But that is not the case if the assets consist of land and other similar immovable properties for effecting a transfer of which formal assurances are necessary. In such cases, the tax must be paid, whether the succession be testamentary or intestate. Because even when the succession is intestate, it very often happens that family dissensions compel the heirs to partition the joint estate and then they are bound to pay this tax.

Sir, we must not forget that in our country the law of primogeniture does not prevail under the Hindu and Muhammadan laws of succession; all the heirs inherit the assets of their forefathers jointly, which they have occasionally to divide amongst themselves. By such division the extent of the property in the hands of each of the heirs diminishes and with the diminished income he has to maintain the family prestige and sustain his family. It therefore becomes

awfully difficult for them to pay heavy duties, I mean, whether for probate or for succession certificate. In some cases, they are compelled to sell off some part of the assets to meet the tax. Sir, it will operate a very great hardship on them if the scale of the duty in their case be still further enhanced, and that exorbitantly. Surely Sir, the Government do not want the disintegration of old and established families of the country.

In any case, Sir, I may point out that the Bill seeks to enhance the scale by 50 per cent. I think this is rather a big jump and should be avoided. Sir, in the Electricity Duty Bill, it had been proposed to levy only 20 per cent. and even that was condemned by some of the hon'ble members as too high.

However, as under the present circumstances of deficit in the Budget, some levy must be imposed, I would suggest that the scale be raised rather lightly.

With these observations, I commend my motion to the acceptance of the House.

The Hon'ble Sir JOHN WOODHEAD: Sir, I must oppose this amendment. The proposals in the Bill do not affect in any way estates of the value of less than Rs. 2½ lakhs, and I fail to see, Sir, how it can be alleged that the taxation proposed by this particular clause falls in any way on the poor man. On the contrary, it falls on persons who can be rightly described as belonging to the wealthier classes. If Mr. Sarat Kumar Roy's modifications are accepted, we shall lose exactly 50 per cent. of the estimated increase in revenue. It may be of interest to the House to know that, so far as the Calcutta Collectorate is concerned, the average annual number of estates affected by the increased taxation, proposed by clause 4, is only 20 and of course those 20 are not all landholders; they include members of the commercial community in Calcutta. The proposal in this clause was, I should have thought, one of the least objectionable of all the proposals for additional taxation from the point of view of the average citizen of Bengal—the least objectionable of all the taxation proposals contained in the five taxation Bills.

Sir, I cannot agree to this large surrender of revenue and, therefore, I must oppose it.

The motion was then put and lost.

Mr. DEPUTY PRESIDENT: Kazi Sahib, would you move all the amendments standing in your name together so that we might have a general discussion? Of course, I shall put the amendments

separately to vote. They all relate to cognate matters, and a general discussion on them would not only be helpful but would also save the time of the House.

Kazi EMDADUL HOQUE: Sir, I should like to move them one by one. I would first move amendment No. 38 to-day and then I shall consider whether I would move the rest to-morrow.

Mr. DEPUTY PRESIDENT: Kazi Sahib, I would like you to move them all together.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. Can the Chair compel a member as to the procedure which he should follow in moving his motions?

Mr. DEPUTY PRESIDENT. Mr. Ray, the Chair was trying to save the time of the House, requesting that amendments to clause 4, which stand in member's name be moved together, inasmuch as they all relate to cognate matters.

Kazi EMDADUL HOQUE: Sir, I want to move amendment No. 38 to-day. As regards the remaining amendments, I may move them all together to-morrow.

Sir, I beg to move——

Mr. DEPUTY PRESIDENT: Order, order. It is time now to adjourn.

Adjournment.

The Council was then adjourned till 3 p.m. on Tuesday, the 2nd April, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 2nd April, 1935, at 3 p.m.

Present:

Mr. Deputy President (Mr. RAZAUR RAHMAN KHAN in the absence of the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 101 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Introduction of union boards in Midnapore.

***104. Mr. R. MAITI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact that durbars are being held at various places in the district of Midnapore, in which the District Magistrate or the Additional District Magistrate is delivering speeches strongly advocating the establishment of union boards in the district amongst other topics?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether it is the intention of the Government to introduce union boards in the district of Midnapore?

(*c*) Is the Hon'ble Minister aware that the people of the district expressed their unwillingness to accept the union boards from the very beginning when such boards were introduced in other districts of Bengal?

(*d*) Have the Government ascertained the present views of the people of the district regarding this matter?

(*e*) If the answer to (*d*) is in the negative, are the Government considering the desirability of giving them an opportunity for expressing their opinion on this matter before any step is taken in this direction?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Yes.

(*b*) The matter is under the consideration of Government.

(*c*) Government are aware that the people of the district were deliberately misled in the matter of union boards by Congress agitators, and that as a result of this many of the people of the district were hostile to union boards.

(*d*) and (*e*) The District Magistrate has made general enquiries and reports that in some parts of the district there is still opposition to the formation of union boards. Before any final decision is taken by Government, the district board and the local boards will be consulted.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state how many union boards were established in Midnapore district after the passing of the Bengal Village Self-Government Act of 1919?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: This is an old history, and I require notice.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether it is necessary, under the provisions of the Village Self-Government Act, to consult public opinion before the establishment of union boards in a particular area?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir.

Mr. P. BANERJI: Is it not a fact that not a single union board was ever formed in the Midnapore district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, union boards were formed.

Rai Bahadur KESHAB CHANDRA BANERJI: Is the Hon'ble Minister aware that, in spite of opposition, union boards, and particularly union benches and courts, were established in many of the districts in Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, under the Act, it is not necessary that public opinion should be consulted. The district boards and the local boards have to be consulted, and I am sure Government did establish union boards with the consent of the district boards and the local boards concerned.

Rai Bahadur KESHAB CHANDRA BANERJI: Having regard to the fact that union boards are doing good work in other districts, will the Hon'ble Minister be pleased to state the reason for delaying the establishment of union boards in the district of Midnapore?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The political situation was not favourable to the establishment of union boards there. At present the matter is under consideration.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Flooding of Chuni-Jatragachi area in Barasat.

54. Rai Bahadur JOGESH CHANDRA SEN: Will the Hon'ble Member in charge of the Irrigation Department be pleased to state—

(*i*) what action has been taken up to date to prevent the flooding of the village Chuni-Jatragachi, etc., in the Barasat subdivision of the 24-Parganas district;

(*ii*) what amount was provided in the Budget for the improvement of the New Cut Canal;

(*iii*) how much has been spent up to date;

(*iv*) why further work has been stopped; and

(*v*) when is the work likely to be resumed?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*i*) The member is referred to the reply given to the question asked by Dr. Naresh Chandra Sen Gupta.

(*ii*) Nothing; the relief measures designed to mitigate the effects of flooding in the Chuni-Jatragachi area do not include any work of improvement to the New Cut Canal.

(*iii*), (*iv*) and (*v*) Do not arise.

Beri Beri.

55. Babu KISHORI MOHAN CHAUDHURI: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government (Public Health) Department aware that Beri Beri has been prevailing in an epidemic form in Bengal for some time past?

(*b*) What steps, if any, have the Government taken in regard thereto?

(*c*) If no steps have yet been taken, what are the reasons?

(*d*) Is the Hon'ble Minister aware of the public opinion that Beri Beri is due to the consumption of mill-rice and mill-oil?

(*e*) Have the Government taken any expert opinion in the matter?

(*f*) Are the Government considering the desirability of putting a stop to the production of rice and other staple foods by mills?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) It is presumed that the member is referring to epidemic dropsy; if so, cases have been reported from Burdwan, Bankura, Calcutta and Patuakhali.

(*b*) The Director of Public Health visited Burdwan and investigated the reported cases: the Public Health Department has distributed pamphlets and charts showing the vitamin contents of common articles of diet, as the inclusion of food containing all vitamins and especially vitamin B has been found to be effective against the disease. Officers of the Public Health Department have also visited affected areas for the purpose of giving advice. Meanwhile the Calcutta School of Tropical Medicine and the All-India Institute of Hygiene have been engaged in an intensive investigation into the etiology of the disease, but this investigation has not yet been completed.

(*c*) Does not arise.

(*d*) and (*e*) Yes.

(*f*) No. The whole position will be reviewed when the results of the investigations referred to in answer (*b*) are known.

Maulvi TAMIZUDDIN KHAN: With reference to answer (*a*), will the Hon'ble Minister be pleased to state whether Government is aware of any disease of the name of Beri Beri in any part of Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes. What is commonly known as Beri Beri is epidemic dropsy; that is the expert opinion.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state how long the Calcutta School of Tropical Medicine and the All-India Institute of Hygiene have been engaged in this investigation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not for a long time.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state as to how long this particular disease, by whatever name it is called, has been prevailing in an epidemic form in Calcutta?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Over a year.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Minister aware that this disease in an epidemic form has been intensive in Calcutta, at least for the last 26 years?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The disease broke out in an epidemic form a few years ago; then it subsided. It has again broken out in an epidemic form, I think, more than a year ago.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Minister aware of the number of deaths that have taken place from this disease in Calcutta?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state when this investigation is likely to be completed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult to answer that question.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether he proposes to make an enquiry as to what methods are being adopted by the other Provincial Governments to deal with this disease?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think it is necessary.

Muslim Female Training School, Calcutta.

56. Maulvi NURAL ABSAR CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what rent is paid per mensem to—

(*i*) the Muslim Female Training School, Calcutta,

(*ii*) the Hindu Female Training School, Calcutta?

(*b*) Is it a fact that the rent that used to be paid for the Muslim Female Training School prior to its removal to its present building has been reduced?

(*c*) If the answer to (*b*) is in the affirmative,—

(*i*) what was the rent that used to be paid before; and

(*ii*) how the same compares with the present rent paid for this school?

(*d*) Will the Hon'ble Minister be pleased to state—

(*i*) what was the rent that used to be paid for the Hindu Female Training School, Calcutta, six years back; and

(*ii*) how the same compares with the rent that is paid for this school at present?

(*e*) Is the Hon'ble Minister aware that the present site of the Muslim Female Training School, Calcutta, is not very satisfactory from the sanitary point of view?

(*f*) Is it not a fact that many representations have been made for the removal of the school to a better site?

(*g*) What action has the Government taken in the matter?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Khan Bahadur M. Azizul Haque): (*a*) (*i*) Rs. 150.

(*ii*) Rs. 400.

(*b*) Yes.

(*c*) (*i*) Rs. 400.

(*ii*) There has been a reduction of 62·5 per cent.

(*d*) (*i*) Rs. 500.

(*ii*) There has been a reduction of 20 per cent.

(*e*) Complaints to this effect have been received.

(*f*) Yes.

(*g*) The Inspectress of Schools is making enquiries for a suitable house.

Maulvi TAMIZUDDIN KHAN: With reference to answer (*a*), will the Hon'ble Minister be pleased to state for how long complaints about the insanitary conditions of the school have been received by Government?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I am not aware of the previous history, but I have been receiving complaints for the last six or seven months.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state, with reference to answer (*g*), from what time the Inspectress of Schools has been making enquiries?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: Enquiries were being made from time to time during the last few months; but so far as the sanitary condition of the school is concerned, enquiries have been started about a month or so ago.

Maulvi TAMIZUDDIN KHAN: Is it possible for the Hon'ble Minister to state when it may be expected that a suitable house will be chosen?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I cannot say when, but I will certainly expedite the matter.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state where the two schools are located?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: Which two schools?

Rai Bahadur KESHAB CHANDRA BANERJI: The Muslim Female Training School and the Hindu Female Training School.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: One is near Gorachand Road, and the other is on the Lansdowne Road.

Ministerial appointment in the Secretariat.

57. Maulvi MUHAMMAD FAZLULLAH: (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to lay on the table a statement showing so far as the Secretariat is concerned, and department by department,—

(*i*) the present total number of permanent ministerial appointments;

(*ii*) how many of them are held by—

(*1*) Hindus,

(*2*) Mussalmans,

(*3*) Hindu graduates, and

(*4*) Muslim graduates;

(*iii*) the present total number of temporary ministerial appointments;

(*iv*) how many of them are held by—

(*1*) Hindus,

(*2*) Muslims,

(*3*) Hindu graduates, and

(*4*) Muslim graduates?

(*b*) Is it a fact that Muslim assistants in the Chief and Finance Secretaries' offices in the Secretariat have on an average higher University qualifications than their Hindu colleagues?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) A statement is laid on the table.

(*b*) A statement is laid on the table.

Statement referred to in reply to unstarred question No. 57 (a) regarding ministerial appointments in the Secretariat.

Departments.	(i) Total number of permanent ministerial appointments.	(ii)(1) Held by Hindus.	(ii)(2) Held by Musalmans.	(ii)(3) Hindu graduates.	(ii)(4) Muslim graduates.	(iii) Total number of temporary ministerial appointments.	(iv)(1) Hindus.	(iv)(2) Muslims.	(iv)(3) Hindu graduates.	(iv) (4) Muslim graduates.
1	2	3	4	5	6	7	8	9	10	11
Finance Secretary's office ..	125	86	35	29	21	3	3	..	2	..
Chief Secretary's office ..	101	58	33	13	16	60	36	17	13	8
Legislative Department ..	10	6	3	..	2	..	..	..	..	..
Revenue Department ..	53	34	17	14	8	5	4	1	1	..
Irrigation Department ..	31	18	12	4	5	4	2	..	..	1
Agriculture and Industries Department.	32	20	12	9	6	1	..	..	..	1
Public Works Department ..	54	31	20	14	10	4	2	2	2	1
Education Department ..	29	17	11	6	5	1	1	..	1	..
Local Self-Government Department.	46	28	12	14	8	2	2	..	2	..

Statement referred to in reply to unstarred question No. 57 (b).

	Total number of assistants.	M.A.'s or M.Sc.'s.	Other graduates.
Chief Secretary's office—			
Muhammadans	33	2	21
Hindus	59	2	24
Finance Secretary's office—			
Muhammadans	23	1	19
Hindus	51	..	29

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state why the number of Muslim assistants in so many offices has not reached the minimum standard?

The Hon'ble Sir JOHN WOODHEAD: The reason, I presume, Sir, is that owing to the recruitment of a larger number of Hindus several years ago in the case of some departments, the number of Hindus in those departments are larger than is the case in other departments.

Maulvi TAMIZUDDIN KHAN: Is the Hon'ble Member aware that the number of Muslim graduates bear a far larger proportion to the total number of Muslim employees than the number of Hindu graduates does to the total number of Hindu employees?

The Hon'ble Sir JOHN WOODHEAD: Sir, I would refer the member to the figures given in the statement.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Court-fees (Bengal Second Amendment) Bill, 1935.

Clause 4.

Kazi EMDADUL HOQUE: Sir, that in clause 4(*b*), in the third column, line 4, for the words "five and a half" the word "five" be substituted.

I beg also to move that in clause 4(*b*), in the third column, line 6, for the word "six" the word "five" be substituted.

I beg further to move that in clause 4(*b*), in third column, line 7, the words "and a half" be omitted.

I beg also to move that in clause 4(*b*), in the third column, line 8, for the word "seven" the words "six and a half" be substituted.

Sir, my reasons for moving these motions are that I am opposed to any measure of taxation. Therefore, I oppose the taxation proposed in this clause 4(*b*). It is a patent fact that the landlords and *zemindars* do not earn by their manual work, but that they have to depend upon

their income derived from their estates. If the tenants are prosperous, the *zemindars* prosper as well, and it is then only that they can afford to pay. On the other hand, if the condition of the peasant is worse, the *zemindars* are not able to realise their dues, and consequently they are worse off. There is no denying the fact, therefore, that the present time is quite inopportune for the purpose. The tenants are not even in a position to pay their rents; in consequence of that, the *zemindars* are not in a position to bear any further burden, and it is quite unjust to inflict this penalty on them. If in spite of this, Government must tax them, then there is no way out of it. Government may say that theirs is a deficit Budget, but this deficit has become more conspicuous by the restoration of the 5 per cent. cut in the pay of Government servants.

Sir, as the landlords are not in a position to bear this burden, I have proposed that a lesser amount should be levied from them. Looking at this taxation measure from another point of view, I see that these *zemindars* will not pay the tax out of their own pockets, but they will explore some new sources of exactions for the payment of this tax, and this will only add to the list of *abwabs*. Sir, my *zemindar* friends might not like this mention of *abwabs* by me, but, to speak out the truth, I cannot but refer to it. Therefore, ultimately, the burden will fall on the shoulders of the poor tenants. Government sometimes say that a little addition will not be minded by anybody, and that the people will not grudge a little more additional taxation. Sir, it might as well be said that Government could ignore a little more addition to their income, that they may remain satisfied with something, which is better than nothing and may accept my amendments. Sir, I move.

The Hon'ble Sir JOHN WOODHEAD: Sir, I oppose the amendments. The loss of revenue under these amendments would be very considerable. Worked out on the basis of the revenue collected in Calcutta during the last three years, it would entail an average loss of nearly three lakhs of rupees, and even if two very large estates on which heavy court-fees were paid are excluded, the loss would be in the region of a lakh of rupees a year. I cannot agree to accept any amendment which has that financial effect. According to the Bill the court-fees payable are not subject to any increase until the value of the estate exceeds two and half lakhs of rupees. The effect of these amendments is to postpone any increase in the court-fees until the estate exceeds Rs. 4 lakhs in value, and between Rs. 4 and 5 lakhs, the duty is to be six instead of six and a half per cent., as proposed in the Bill, and when the estate exceeds Rs. 5 lakhs, it is 6½ per cent. instead of 7 per cent. The amendment is sought to be justified on the ground that the increase in court-fees as proposed in the Bill will press hardly on landholders. But the landlords are not the only persons who will be affected by the proposed increase in court-fees. In fact, although

I have no figures with me, I believe the number of landlords who will be affected by this increase in court-fees is small, because it affects only those landlords who make a will.

As regards *abwabs*, I am rather surprised that no landlord has got up and objected to the statement made by the mover of the amendments that any increase in taxation will be immediately followed by an increase in the *abwabs*——

Mr. NARENDRA KUMAR BASU: Probably the landlords accepted that.

The Hon'ble Sir JOHN WOODHEAD: I hope they do not, and I think Mr. Basu knows that they do not.

Sir I oppose these amendments.

The motions were put and lost.

The motion that clause 4 stand part of the Bill was then put and agreed to.

Clause 5.

Mr. DEPUTY PRESIDENT: I take it that motions Nos. 50 to 64 are not being moved. I call upon Mr. Sarat Kumar Roy to move amendment No. 65.

Mr. SARAT KUMAR ROY: Sir, I beg to move that in clause 5, for sub-clause (*2*), the following be substituted, namely:—

"(*2*) In the third column of the said article as amended by the said sub-section (*1*)—

(*a*) after the words 'five per centum,' the following shall be inserted, namely:—

'on the next one lakh and fifty thousand rupees, five and a half per centum on the next two lakhs and fifty thousand rupees,

and

six per centum,'

(*b*) after the words 'seven and a half per centum,' the following shall be inserted, namely:—

'on such portion of the next two lakhs and fifty thousand rupees,

and

nine per centum.' "

Sir, I have already spoken yesterday, and have given arguments as to why I want to move these amendments. So I do not wish to make any speech now.

The Hon'ble Sir JOHN WOODHEAD: For the same reason, Sir, I also do not wish to make any speech this time, but I oppose the motion.

The motion was put and lost.

The motion that clause 5 stand part of the Bill was then put and agreed to.

Clause 6.

The motion that clause 6 stand part of the Bill was then put and agreed to.

Clause 7.

The motion that clause 7 stand part of the Bill was put and agreed to.

Preamble.

The motion that the Preamble stand part of the Bill was put and agreed to.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg to move that the Court-fees (Bengal Second Amendment) Bill, 1935, as settled in Council, be passed.

Mr. NARENDRA KUMAR BASU: Sir, I beg to oppose this motion, and the grounds of my opposition are well known to the Council. I submit that even after the speech of the Hon'ble the Finance Member last night, no cogent reason has been advanced for the introduction and the passing of these taxation measures at the present time. I do not know the amount that the Hon'ble the Finance Member expects to come out of this Bill, but whatever that amount might be, my submission is, Sir, that for the purpose of placating the susceptibilities of the members of the Legislative Assembly, the House ought not to consent to these taxation measures. So far as the present measure is concerned, I submit there is nothing to differentiate it from the other Bills, even though this may hit a smaller number of men. I oppose the motion.

The Hon'ble Sir JOHN WOODHEAD: Sir, Mr. Basu's opposition is not unexpected. He has consistently taken that line, and I have consistently taken the other line. We shall never agree on this point, and it is not my intention to waste the time of the House by repeating the arguments I have used in favour of the taxation measures and in refutation of Mr. Basu's point of view. Sir, I support my motion.

The Hon'ble Sir John Woodhead's motion that the Court-fees (Bengal Second Amendment) Bill, 1935, as settled in Council, be passed, being then put, a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Maulvi Emaduddin.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Banerjee, Babu Jitendralal.
Barma, Babu Promhari.
Barma, Rai Sahib Panchanan.
Basu, Mr. S.
Benjamin, Mr. N. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chatterjee, Rai Bahadur Ram Dev.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Das, Babu Guruprasad.
Datt, Mr. G. S.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. N.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. P. T.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nashem Ali.
Khan, Maulvi Tamizuddin.
Maguire, Mr. L. T.
Martin, Mr. G. M.
McCluskie, Mr. E. T.
Miller, Mr. S. G.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Monomohan.
Mukhopadhaya, Rai Sahib Surat Chandra.
Mullick, Mr. Makunda Behary.
Nag, Rev. B. A.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy Chowdhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Steven, Mr. J. W. R.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Nassan.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Maulvi Nurul Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. B.
Mitra, Babu Surat Chandra.
Nag, Babu Sak Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Nageshwar Prasad.
Rai Mahasai, Maulendra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nagesri.
Roy, Mr. Surat Kumar.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

The Ayes being 55 and the Noes 23, the motion was carried.

Bengal Tobacco (Sales Licensing) Bill, 1935.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg to move that the Bengal Tobacco (Sales Licensing) Bill, 1935, as reported by the Select Committee, be taken into consideration.

As in the case of the Electricity Bill and the Court-fees (Amendment) Bill, which have been passed by this Council, the Select Committee on the Tobacco (Sales Licensing) Bill, 1935, also came to the conclusion that the duration of the Bill should be limited to a period

of three years, and effect has been given to this decision by an addition to sub-clause 3 to clause 1. Another important change made by the Committee is the omission from the Bill of all provisions governing the confiscation of tobacco in regard to which an offence has been committed. Provisions of this nature are a feature of excise laws and provisions of this nature appear in the Bengal Excise Act, but the Committee came to the conclusion that similar provisions were not only not necessary but also inappropriate in respect of the administration of the Tobacco Sales Licensing Bill under which the intention is to impose license fees at low rates.

Another change which the Committee made was in regard to arrest without a warrant. In clause 12, as amended by the Select Committee, the power to arrest without a warrant is limited to cases in which the person refuses to give his name and address or gives a name or address which is believed to be false.

I think at this stage these are the only points to which I need make reference.

Mr. P. BANERJI: Sir, I beg to move by way of amendment that the Bill be re-committed to the same Select Committee.

In doing so I thought that from the strong opposition that was given by the members of this House in the beginning that the Hon'ble the Finance Member, at least in this particular case, would withdraw the Bill. So far, we are aware this measure will entail great hardships on the poorest people for whom the Hon'ble Member, while speaking on different Bills, has expressed great solicitude. Therefore, it was natural for every person to expect that this Bill when it emerged out of the Select Committee would show some radical changes. But we are hopelessly disappointed to find that nothing whatsoever has been done. The only change that has been made in the Bill is that it has been made temporary, *i.e.*, for three years. This provision is not made for this Bill alone, but for all the other Bills in order, I consider, to ensure the quick passage of the Bill through the Council. We know what happens in a Bill of this nature. We find that when there is an avenue of finding money Government subsequently makes it a permanent one. In this case also it would be made permanent after three years.

There is another feature that in the case of tobacco they want that the realisation of the tax should be entrusted to the excise officers. I said on a previous occasion that the intention of Government in bringing in the excise officers is to bring tobacco under the purview of the Excise Act. That is still our apprehension. Some consider that it is not necessary, as tobacco is the poor man's luxury. I beg to differ from that. I maintain that it is not a luxury, but it is a necessity pai

the cultivators will not be taxed, the tax will fall on the dealers and the tax is very small. I consider that it is not so. The cultivators will not be taxed, but it is an indirect taxation because the consumers will only be taxed. I pointed out at the earlier part of the debate that that is not the only thing. The other thing is that the poorest people, especially of Calcutta, nowadays earn their living by manufacturing *biris*, and Calcutta which was full of pickpockets is now practically free from them. If you go to the remotest village in Bengal you will find that the poorest widows are maintaining their orphans with the little income from the manufacture of *biris*. If this taxation is imposed, the result will be that the poorest people will be very hard hit. The poorest people are often harassed by the excise officers and the present Bill will give the excise officer an additional handle to harass these people. Therefore, I consider that in view of the present economic situation in the country, Government should reconsider the matter and not deprive the poor widows of the small income they are deriving from the manufacture of *biris*. The whole amount of tax will not be more than Rs. 3 lakhs and Government can very easily find that money from other sources without causing hardship to the poor people. The Government nowadays are trying to become very popular, but if they impose this tax on the poor they will lose much of their popularity, and in fact they will become unpopular. With these words I move my amendment.

The Hon'ble Sir JOHN WOODHEAD: Sir, I rise to oppose this motion for recommittal. I would at the outset make a special appeal to the House not to recommit this Bill to the Select Committee, but to pass the Bill. I realise that among certain members there is a feeling of strong opposition to any taxation on tobacco. But I would appeal to them to put sentiment on one side. They are legislators; they have got a duty to Bengal and I appeal to them to approach the subject not from the point of view of sentiment, but to examine the measure carefully to see exactly what amount of taxation it seeks to impose and what the actual burden will be upon the persons who have to pay the proposed license fee and on the consumer. First, I would invite the attention of the House to the position in other parts of the world and then to that in other parts of India. As I said when moving for the reference of this Bill to a Select Committee, tobacco is the subject of internal taxation in the large majority of the countries of the world, and if members wish to have that statement confirmed, I would refer them to the Taxation Committee's Report of 1926. In the volume containing the appendices to the report of that Committee, there is an appendix which gives a very full account of the internal taxation on tobacco in many parts of the world. Again, Sir, in many parts of India some form of internal taxation on tobacco is in force. I gave the House some information on this point when speaking on the motion

for the reference of the Bill to a Select Committee, but as memories are proverbially short, I feel that at this stage I must repeat what I then said. Now, first take the Indian State of Travancore. The cultivation of tobacco in Travancore is prohibited, import duties are levied on all tobacco entering the State, and all dealers, wholesale and retail, are required to possess a license. In Cochin, another Indian State, the cultivation of tobacco is also prohibited and all tobacco shops, whether wholesale or retail, are sold by auction. In many other States also tobacco is subject to internal taxation. The commonest form is an import duty which is either coupled with an excise duty on the tobacco actually grown in the State or, as is more frequent, accompanied by a license fee. Then, in French India which includes Chandernagore, the privilege of the vend of tobacco is sold by auction on conditions which give each shop a practical monopoly in the local area. Again, in Portuguese India license fees are charged for wholesale and retail vend. I would also once again remind the House that the Committee which examined the possible sources of additional taxation for the new province of Sind, a predominantly Moslem province, recommended the imposition of a license fee on the sale of tobacco as a suitable measure for increasing the revenues of that province. Again, in Bombay there has been since 1857 a town duty on all tobacco imported for consumption in the city of Bombay; that duty was raised to the figure of Rs. 30 a maund, I believe, in 1932. Outside the city of Bombay there is an Act which, I believe, has been re-enacted recently and which requires all vendors to take out a license, and pay a license fee, for both wholesale and retail vend. Further, in the Punjab, in 1934 an Act was passed imposing license fees on the sale of tobacco in municipalities, notified areas, small towns, cantonments and railway stations; and a Bill has recently been introduced in the United Provinces also seeking to impose a license fee on the sale of tobacco. And finally I would refer to the Taxation Enquiry Committee's Report of 1926, which definitely recommended a license fee on vend as a source of taxation in India.

Now, Sir, it may be of interest for the House to know what systems are followed in other countries. I do not, however, propose to weary the House by entering into a long dissertation on these different systems, but I will content myself by giving the House an idea of the monopoly system in force in Japan. My object in doing so is to give the House an opportunity of comparing the system of taxation in force in Japan, an eastern country, with our very modest proposals for a license fee in Bengal. In Japan the cultivators are required to take out special licenses, that is, cultivation is not permitted except under license. Cultivation is subject to strict rules and regulations including the kind of tobacco which must be grown. During the first three years following the introduction of this leaf monopoly, the number of villages in which tobacco was grown was reduced from 6,100 to 2,000. All

manufactured tobacco is, I believe, made in Government factories and tobacco is sold at different centres by Government to wholesale and retail vendors who are specially licensed. Nobody can sell tobacco either whole or retail without a license. The retail price is fixed and naturally fixed, I assume, with reference to the needs of the revenues. The profit which is permissible to the wholesale and retail vendors is also limited. Now, Sir, compare that with our measures as shown in this Bill. What does the Bill propose to do? It proposes to impose a small license fee of Rs. 6 a year on a wholesale vendor and Rs. 3 a year on a retail vendor. As I told the House, the fee proposed for the hawker is Re. 1 a year. Those fees cannot be described as high fees. They are very low fees, and I fail to see how those fees can impose any great burden on the vast majority of vendors or the consumer. As I stated before, a fee of Rs. 3 a year for the retail vendor is equivalent to 4 annas a month. Four annas a month is not a heavy charge, and even if the vendor succeeds in passing on this 4 annas to his consumers, it is unlikely that there will be any appreciable increase in the price of tobacco. Now, I would remind the members that this House passed the Bengal Municipal Act two years ago and in that Act provision was made for a license fee to be charged on certain classes of retail vendors in municipalities. So far as I remember, nobody in this House at that time suggested that the license fee which, if I remember aright, is a maximum of Rs. 4, would lead to a large increase in the price of the articles sold in the municipal area or would impose any great burden on either the vendor or the consumer. As on the previous occasion the poor consumer has figured prominently in this debate, but, as I said before, I fail to see how this small license fee can increase to any appreciable extent the price at which the small consumer gets his tobacco. Mr. P. Banerji is fearfully alarmed for the small consumer, but I wonder whether Mr. P. Banerji ever raised his voice in protest against other duties which have affected the small consumer far more than this tobacco license fee will ever do. I have in mind the protective duty on cotton piece-goods. That duty was and still is a high duty; it is lower now, but at one time, I believe, it was as high as 75 per cent. That duty certainly has had the result of increasing the price of cotton piece-goods in India. It is a protective duty. It is a duty levied in order to protect the manufacture of cotton piece-goods in India, to encourage the manufacture of piece-goods in India. I do not wish to-day to offer any criticism on the policy of protection of which that duty is an illustration, the point which I wish to make is that the effect of that duty has undoubtedly been to increase the price of cotton piece-goods in India to a very considerable extent. Mr. Banerji sheds tears to-day on behalf of the poor consumers of tobacco, the price of whose tobacco is to be raised by an infinitesimal amount, but I doubt whether he has shed a single tear on behalf of the poor consumer who has to pay a higher price for the cloth he buys for himself, for his wife and for his children. Again, as regards

corrugated iron, there is a protective duty on imported steel including corrugated iron sheets. This was imposed with the object of establishing the steel industry in India. Did Mr. Banerji ever raise his voice in protest against that duty on the ground that it would injure the poor consumer? He no doubt is aware that the cultivators in Eastern Bengal use corrugated sheets to a large extent.

Mr. P. BANERJI: It is a matter for the Central Legislature.

The Hon'ble Sir JOHN WOODHEAD: That is immaterial. I am criticising Mr. Banerji's attitude. Has Mr. Banerji ever raised or would he raise his voice in protest against that duty because it hits the poor consumer? No, Sir, but, when the poor consumer is taxed by an infinitesimal amount in order to raise a small amount of money for the province of Bengal, he objects. He does not object to a protective duty which puts many lakhs of rupees into the pockets of the manufacturers in India; he objects, however, to a small fee being imposed on the vend of tobacco for the benefit of the provincial revenues, a fee which probably will not increase the price of tobacco by anything but an infinitesimal amount, but he will never raise his voice in protest against duties which have a much worse effect upon the poor consumer. Sir, I think that if this Bill is not passed, it will be most unfortunate for Bengal. Look at it as you will, no one can honestly say that it is a duty which is going to impose a serious burden on either the vendor or the consumer. A higher duty has been imposed in Bombay, a duty has been imposed in the Punjab and the United Provinces Government have submitted proposals to the Provincial Legislature for a higher duty in the United Provinces. I think, Sir, in our present position, and having regard to the circumstances of Bengal, it will be most unfortunate if this Council refuses to pass a Bill which other people will certainly say imposes taxation of the lightest nature. I therefore oppose the motion for recommittal and commend my motion that the Bill be taken into consideration.

Mr. P. Banerji's motion that the Bengal Tobacco (Sales Licensing) Bill, 1935, be recommitted to the same Select Committee being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Khetri Mohan.
Chatterjee, Rai Bahadur Ram Sarup.
Choudhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nasir Ahmed.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Khan Bahadur Ekramul.
Hussain, Maulvi Muhammad.
Khan, Maulvi Tamizuddin.
Quasem, Maulvi Abul.
Rahaman, Maulvi Anwar.
Ray, Babu Amulyadhan.
Ray, Mr. Khagendra Nath Sarkar.
Rout, Babu Nalini.
Samad, Maulvi Abdus.

NOES.

NOES.

Ahmed, Maulvi Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Ezaduddin.
Arthur, Mr. W. S.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Bashir Uddin, Khan Sahib Maulvi Mohammed.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Mr. Jogendra Chandra.
Cohen, Mr. D. J.
Cooper, Mr. G. B.
Dutt, Babu Guruprasad.
Dutt, Mr. G. S.
Farequi, the Hon'ble K. G. M., Khan Bahadur.
Ferguson, Mr. K. M.
Ghose, Rai Bahadur Saroshe Comar.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Goho, Mr. P. N.
Guthrie, Mr. F. C.
Hague, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. B. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nasheem Ali.
Lamb, Mr. T.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
Martin, Mr. G. M.
McCluskie, Mr. E. T.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib ——————
Mukherji, Babu Shirendra
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Surat Chandra.
Nag, Rev. B. A.
Nag, Babu Sak Lal.
Nandy, Maharaja Srish Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Raheem, Mr. A.
Rahaman, Khan Bahadur A. F. M. Abdur.
Ray, Babu Khetter Mohan.
Ray Choudhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Saileswar Singh.
Roy, Mr. Surat Kumar.
Roy Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Steven, Mr. J. W. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. J. R.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 19 and the Noes 67, the motion was lost.

The Hon'ble Sir John Woodhead's motion that the Bengal Tobbaco (Sales Licensing) Bill, 1935, as reported by the Select Committee, be taken into consideration was put and agreed to.

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

Clause 1.

Mr. DEPUTY PRESIDENT: The motion is that clause 1 stand part of the Bill.

I find that amendments Nos. 71, 74, 77 and 78 refer to the restriction of the area to which the Bill should be applied. If there is no objection, I should like to have one general discussion on all of them together, though I shall put the motions to vote separately.

Maulvi ABUL QUASEM: Sir, I beg to move that for clause 1(2) the following be substituted, namely:—

"(2) It extends to all municipalities, cantonments and railway stations in Bengal."

Sir, my purpose is to limit the scope of this Bill so that the rural areas in Bengal may be exempted from the operation of this taxation measure. I have suggested in amendment No. 83 a definition of the word "municipality," and this amendment will have to be read along with that definition which I have sought to provide therein.

Sir, so far as these taxation Bills are concerned, I made my position clear when speaking on the motion of the Hon'ble Sir John Woodhead for reference of this particular Bill to the Select Committee. I said at the time that I was opposed to each and every one of these taxation measures. I gave my reasons in that speech. Possibly, Sir, I shall have to repeat some of the arguments which I then advanced. But, at this stage, I wish to make a few preliminary observations. I wish to tell the House that since I made that speech I have reconsidered my attitude towards this particular Bill. I have carefully considered if the attitude which I adopted on the previous occasion was correct or not. I have read and re-read the Budget Speech of the Hon'ble the Finance Member, the statement which he made in introducing these measures, and the Press *communiqué*, which was published in the *Calcutta Gazette*, along with the draft Bills. Sir, I must regretfully tell the House that my attitude remains unchanged. Sir, let us look carefully into the purpose which induced the Government to bring forward these taxation measures. What is that purpose? In order to find out the purpose I shall have to turn to the statement which was made by the Hon'ble the Finance Member on the 12th February, 1935, in connection with these taxation measures. From paragraph 2 of that statement, it is made perfectly clear why Government felt compelled to bring forward these taxation measures in this Council. The purpose, to put it briefly, is that the Hon'ble the Finance Member of the Government of India and the Central Legislature made it a condition for financial assistance to Bengal that Bengal should furnish proof that she was doing all that lay in her power to help herself in putting her house in order. I should pause here for a moment and ask: "Why should Bengal be asked to help herself?"

Mr. DEPUTY PRESIDENT: Maulvi Sahib, your amendment contains a specific suggestion, and I think it would be better for you to limit your general observations as much as possible.

Maulvi ABUL QUASEM: Unfortunately, Sir, I have not made any speech so far as these taxation measures are concerned in the course of the present debate.

Mr. DEPUTY PRESIDENT: Maulvi Sahib, you will have every opportunity afterwards of doing so.

Maulvi ABUL QUASEM: Sir, I am not going to waste my breath by speaking on other amendments. I have studiously refrained from giving notice of any amendment except the present one in connection with the five Bills, because I do not desire that they should be passed into law. If you would, Sir, be a little more patient and bear with me, you will find that every word that I shall utter will be perfectly relevant to the subject under discussion.

Sir, as I was saying, that the Hon'ble the Finance Member admitted in that statement that Bengal's financial plight was not due to her own fault, but to the inequitable settlement known as the Meston Settlement, which was placed like a mill-stone round the neck of the Government of Bengal. Let me now quote the exact words of the Finance Member. He continued: "I do not, therefore, propose to go into those matters to-day except to assure the House that we have not relaxed, and shall not relax, our efforts to obtain under that constitution the full measure of what we consider Bengal can justly claim—a financial settlement which will redress the injustice of the past and render possible the expansion of those constructive services, the proper development of which has been rendered impossible by the persistent financial difficulties of the last 14 years." So, Sir, the Government admit that the present financial plight of Bengal is all due to the iniquitous settlement, unfortunately associated with the name of Lord Meston, who was, however, not personally responsible for it. The Government are sure that under the new constitution, Government would be able to convince the authorities concerned of the injustice done to Bengal, so much so that the expected financial settlement would not only redress the injustice of the past but also render possible the expansion of constructive services. Well, Sir, if this is the view of Government, why should they be asking this Council to pass these taxation measures? I think that Government should concentrate their efforts on the redress of the admitted injustice and wrong that have been done to Bengal. Already the Joint Parliamentary Committee and the British Government have recognized the justice of Bengal's claim by embodying in the Bill, that is now before Parliament, that Bengal should at least have half the yield from the jute tax—our claim to at least half the jute duty has been admitted, and Sir, provided for. Why does the Hon'ble the Finance Member want us to help him in passing these taxation measures? He does so because in our present financial position we require assistance from the Government of India. We cried out to the Government of India to help us, and they, in their turn, cried back, saying: "You have got to prove that you have tried to help yourselves by putting your house in order." Sir, I cannot understand that attitude of the Government of India. Sir, one would have expected that the

Government of India would do nothing to add to or intensify our troubles, which are already serious enough and which they have recognised, are not due to our fault. The Government of India, however, without caring to consider——

Mr. DEPUTY PRESIDENT: Maulvi Sahib, I do not think that these observations of yours are very relevant to the specific issue raised in your amendment. These remarks would have been relevant in the case of a general discussion on the principles of the Bill. I hope you will restrict yourself to the amendment.

Maulvi ABUL QUASEM: Sir, I must bow down to the decision of the Chair; but there are occasions, Sir,——

Mr. DEPUTY PRESIDENT: Your remarks would have been more appropriate when the Bill was being considered at the time of reference to the Select Committee, or on the motion that the Bill be taken into consideration.

Maulvi ABUL QUASEM: Sir, I am really trying to lead up to the elucidations of my reasons as to why I want the scope of the Bill to be restricted. I must tell the House the reasons why the scope of the Bill should be restricted.

Mr. DEPUTY PRESIDENT: Maulvi Sahib, please try to make them as brief as possible and also try to come to the issues involved in your amendment.

Maulvi ABUL QUASEM: Now, Sir, that very same Government without caring to consider what the effect of the restoration of the 5 per cent. cut in the salaries of the All-India Services would be upon Bengal restored the cut, which involved the Bengal Government in an expenditure of Rs. 17 lakhs! Sir, Rs. 24½ lakhs is the estimated yield of revenue expected to be derived from these five Bills. This action of the Government of India, Sir, at once takes away the ground off from the Government's purpose. If the cut had not been restored, I could tell the House that I was very much affected by the statement made by the Hon'ble Sir John Woodhead, as also the private discussion which I had with him. But the decision of the Government of India and the consequent decision of the Government of Bengal has completely revolutionised my attitude towards the Bills. If the Government of India are so inconsiderate, so unfair, and so unjust, I certainly think that we need not listen to the "voice" of that Government or of the Central Legislature. Our Government should have been strong enough to tell the Government of India: "Why do you multiply our difficulties by restoring the 5 per cent. cut in salaries? Why after this do you expect us to

impose fresh taxation to prove our good faith and to show that we are trying to put our own house in order?" Because of this restoration of the cut in salaries, Sir, I do feel most strongly that there is not an iota of justification for any of these taxation measures, and that is one principal reason why I am opposed to each and every one of these taxation Bills. Now, Sir, why do I want the scope of the Bill to be restricted? In the Press *communiqué* to which I have already made reference it was stated that the estimated yield in a full year from the Bengal Tobacco (Sales Licensing) Bill would be Rs .5 lakhs. Now it comes to this. To all intents and purposes, whatever may be the proceeds of this taxation, I may say without fear of contradiction that practically what we are doing by these Bills is only to find money for restoring the 5 per cent. cut in salaries. Rupees 17 lakhs is required for the restoration of the cut, and if we deduct this amount from the total yield of these taxes, it will leave a balance of Rs. 7½ lakhs only. Supposing we restrict the scope of this particular Bill, we lose a few lakhs and instead of Rs. 5 lakhs we may get Rs. 2 lakhs that is to say, Rs. 3 lakhs less. Still Government will have Rs. 21½ lakhs. Should not the Government be satisfied with that in the present agonised condition of rural Bengal? Is it an unreasonable appeal to make to the Government of Bengal? It has been said that this tax would not affect or hard hit the poor people, but I join issue with the Hon'ble Sir John Woodhead when he says this. With the deepest respect to him I say that he does not know the present condition of the people in the villages. Many people will be driven out of this trade as a result of this licensing Bill and that will add to the prevailing unemployment. Although Government think that the tax would not result in enhancement of price, I think it would have that effect. I have no doubt that both the consumers and the vendors will be affected by this. It is well recogniset that Bengal is passing through a terrible economic depression and the depression is severest in the rural areas. What harm would there be if you gave up a few lakhs of rupees? It would be a matter of only two or three lakhs of rupees, and —be it noted—the yield of these taxes is practically going to be spent in restoring the salary cut. If we actually get, say, only Rs. 20 lakhs, that would not make any appreciable difference to anybody. It seems to me as to everybody else, that the Government of India on their own showing unmistakably forced the hands of the Government of Bengal in the matter of restoration of the salary cut. With what face, then, can they ask us or expect us to tax ourselves afresh? I pause for a reply. I know I am fighting against odds. I know that from day-to-day observations of occurrences in this Council and I do not delude myself with the hope that my motion has any chance of being accepted by this House. If without casting any reflection on any individual member or group members of this House I may be permitted to say so, I would say that the Government have got an assured majority; but those who know of what elements that majority is composed would not set much store by that majority. Those of us who come from the rural

areas and claim to speak for the rural areas know that the Government majority does not represent rural Bengal. I say without fear of contradiction that as a matter of fact, the Government majority or the majority which the Government have been able to muster on every occasion in connection with these Bills does not look to or care for the interests of rural Bengal. They do not feel for rural Bengal which is admittedly passing through an economic distress to describe which adequate words cannot be found. Sir, it is a painful matter to me to refer to certain remarks made about me in a Calcutta paper the other day. It pointed out that I was one of the youngest members of this House. That is a painful——

Mr. NARENDRA KUMAR BASU: That is not painful to you.

Maulvi ABUL QUASEM: It is not quite pleasant, as the implication is that youth betokens lack of wisdom and knowledge of men and affairs. But whatever my shortcomings, I have tried honestly to give the most close attention to each and every one of these Bills, and I have already told the House that I do not find myself in a position to heartily approve of the purpose for which the Government have introduced them. If I could heartily approve of that purpose I would go into the Government lobby. In spite of what the Hon'ble Sir John Woodhead has told us time and again regarding the purpose of these Bills, I cannot approve of them. Now the position is this: If I could persuade Sir John Woodhead (I know I lack that power of persuasion), I would beseech him to consider our position in this matter. I beseech him in all humility to spare rural Bengal and thus earn the gratitude of rural Bengal. It will not mean anything appreciable to the Government of Bengal; it will not spoil the case of Bengal when the Financial Inquiry is ushered in. It is a question of only a few lakhs. Why should not Government in this matter show some consideration for our feelings, our request and our solicitation? I do think that Government ought to be magnanimous. If Government were good enough to agree to restrict the operation of this Bill as I suggest, part of our bitterness on account of this taxation proposal will be mitigated. I do therefore earnestly beseech Government to consider my proposal sympathetically. Let the House be not under a false impression that the money which the Government want to raise by these five Bills is expected to cover the deficit in our Budget. The deficit will remain all the same, although it may be somewhat less, and notwithstanding the passing of these taxation Bills. If the purpose is only to give some proof to the Government of India of our willingness to help ourselves by passing these measures, the purpose will be well served by getting about Rs. 21 lakhs. Will that not satisfy the Government of India? Cannot Government accept my amendment to restrict the scope of the Bill in order to spare rural Bengal which is admittedly overtaxed and in dire distress. I am

sure, Sir, it cannot be maintained for a moment that anything short of Rs. 24½ lakhs will spoil our case for financial justice and on equitable financial settlement.

Sir, I will conclude just by saying this: Since these taxes are not going to wipe out our deficit, and since these taxes are not for the purpose of meeting our urgent local needs and since they are only meant to show our willingness to put our own house in order (although it is admitted that the disorder in our household is not due to ourselves), why cannot we agree that the operation of the Bill should not extend to rural Bengal impoverished and distressed as it is? I do think that if Government accept my motion to restrict the operation of the Bill, the heavens will not fall and Bengal's case for financial justice will not be spoilt, while rural Bengal will heave a deep sigh of relief. Sir, I commend my motion.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 1 (*3*), line 1, for the words "in such areas," the following words be substituted, namely:—

"in such municipal towns and such *hâts* and bazars."

The effect of the motion would be that clause 1 (*3*) would read like this:—

"It shall come into force in such municipal towns and such *hâts* and bazars as the Local Government may by notification in the *Calcutta Gazette* direct."

I may state at once very frankly the chief reason why I move this amendment. I shall be quite brief. This Bill is going to be a great nuisance to the people, especially to traders, and my object is to restrict the nuisance as much as possible. That is the first reason which I would put forward. If you look into the Bill you will find that it provides an elaborate machinery for harassing people who may possibly be suspected of dealing in the tiniest little quantity of tobacco. If you carry this harassment only to municipal towns and to public *hâts* and bazars, only the more considerable *hâts* and bazars, then the chance of abuse of this power would be considerably less than if you carry these provisions to the remotest villages.

Rai Bahadur KESHAB CHANDRA RANERJI: Even that will affect poor people.

Dr. NARESH CHANDRA SEN GUPTA: It will affect the poor people, and I do not give up my strong opposition to the whole Bill. This is an amendment to a part of the Bill, but I am reserving my [illegible] to the Bill as a whole to the third reading. That is the

first reason. The Bill is going to be a nuisance, and I want to restrict the nuisance as much as possible to save rural Bengal, where the protection against the abuse is far less than what you have got in municipal towns and bazars and *hâts*. In the second place I wish to point out that from the revenue point of view also there is some merit in this proposal. It will come into force in municipal towns and *hâts* and bazars according to the direction of Government. Even if this motion is carried, I expect that the Government would in the first instance exercise its discretion by extending the Act only to the larger municipal towns and to the larger *hâts* and bazars from which a considerable quantity of revenue would be obtained. That would be the first attempt of the Government. Now if the revenue obtained from it is sufficient for the needs of Government, the Act need not be further extended. As a matter of fact, the Government have no definite idea as to the amount of money they hope to realize by means of this taxation—Rs. 5 lakhs is only a guess—that may be an overestimate or it may be an underestimate. This amendment would make it possible for the Government to adjust the application of the Bill according to the requirements of finance. If in the first instance the large *hâts* and large municipal towns are brought in and that is not sufficient for financial purposes, then Government may extend the operation of this Act to other bazars and *hâts*. In this way this amendment would provide a certain amount of elasticity to the Bill. Of course my purpose is that it should be limited in the first instance only to the big centres, where we would get a large quantity of revenue in a lump.

There is a further consideration, a consideration that has been hinted at by Mr. Abul Quasem, to which I would like to add a few other points. When this Bill was introduced in the Council, the financial outlook was much gloomier than it is now. The Government of Bengal is now better to the extent of Rs. 38 lakhs which they have got and which they did not expect from the Government of India on account of jute duty. That is one bright feature which has altered the financial position. This Bill is going to give the Government of Bengal only Rs. 5 lakhs to relieve their financial position. On the other hand, since they decided to introduce this Bill, they have got Rs. 38 lakhs which they did not expect to get. That at any rate ought to be the consideration which should induce them to stay their hands before at least the Bill is put into full operation. Even if it means that two or three or even four lakhs of tax would be lost to Government, the Government would be able to forego it by reason of the reduced liabilities on account of the windfall of this Rs. 38 lakhs and also on account of the brighter outlook of the future in consideration of the promise of the Central Government to pay us half of the jute export duty. It is just possible that the export of jute will increase next year and in that case the jute tax will also increase.

In that case there will be a reduction in the deficit of Government. So, there are numerous reasons for the Government to be a little more generous to the taxpayers. Government can at least have breathing time just to experiment and see how the Bill works with this limitation. There is the possibility for extension provided for in the Bill itself with my amendment, so that Government might extend the operation of the Act later, if they so desire. I submit that these are the reasons which ought to induce the Government to accept my amendment. At any rate, these are the reasons which should appeal to those members of the House who are interested in the rural population. There can be no doubt to anyone who has read the whole Bill that it is going to be a terrible nuisance in the villages. I think I have been able to satisfy the Hon'ble Member that the effect of this amendment would not make it impossible for the Government to go on or even put a severe strain on the finances of the Government. On the other hand, the amendment would seem to be dictated by considerations of prudence and humanity. I hope that the hon'ble members would vote in support of this amendment. If at the time, when we are expecting to carry over an extra deficit of Rs. 38 lakhs to be made good by loans and to get a larger deficit next year than we are expecting, we were legislating for an income of Rs. 5 lakhs, with our improved finances, there is no reason why we should not be able to look with complacence upon losing 2 or 3 lakhs out of that now. But if, on the other hand, nothing less than the whole hog would satisfy the Hon'ble Finance Member, we can put it down not to financial consideration, not even to the consideration of the fear of the Government of India or the Indian Legislature but to sheer obstinacy and nothing else. If it comes to this, Sir, that although we have got more money, a great deal more than what is expected to be raised by this Bill, yet we would not relax our hold upon the taxpayers even by a little bit, then I say it would be sheer obstinacy. Are we to suppose that we are doing it only for the purpose of satisfying the Government of India or the Indian Legislature? If that is so, why we are going to squeeze out money from the poor people or as the Bengali adage goes, by putting more water into the ear to bring out a little bit of water, then I should say let the Government of India rather have the jute duty than have each instalment of jute duty by squeezing more and more the poor peasants in their most distressed condition.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, may I have your permission to modify the amendment that stands in my name?

Mr. DEPUTY PRESIDENT: Yes, you have my permission to do so.

Rai Bahadur SATISH CHANDRA MUKHERJI: I want to move it in the following amended form:—

That after clause 1 (*3*), the following proviso be added, namely:—

"provided that the provisions of this Act shall not apply in a village inhabited by less than five hundred persons."

Sir, the object of this motion of mine is to protect a small number of persons who eke out their living by starting small *pan* shops where they sell, *pan*, tobacco and *biri*. They earn 4 annas to 6 annas a day. Practically they have no capital. The question is that if the license, which is supposed to be Rs. 6 and Rs. 3, be imposed upon these people, there is every possibility of a large number of such shops being closed. These poor people live in the villages and, as is well known, they cannot even pay the union board tax of 8 annas or Re. 1 a year. As this Act would apply to all irrespective of their income, these poor people who cannot pay the union board tax will also be compelled to pay the license. Therefore, I would suggest that these people should be exempted from the operations of this Act, and I think this exemption will not affect the revenue of Government very much. On the other hand, it will afford protection to a very deserving section of the population.

Babu AMULYADHAN RAY: Sir, I beg to move that after clause 1 (*3*), the following proviso be added, namely:—

"Provided that this section shall not apply to areas within the jurisdiction of the union boards."

Sir, my friend Maulvi Abul Quasem has given this House a true picture of rural Bengal, and so I need not repeat the arguments advanced by him over again. Dr. Naresh Chandra Sen Gupta has said that this Bill is a nuisance. I would go a step further and tell the House that the Bill would be an engine of oppression at the hands of the excise authorities. As for myself, I can say that I am opposed to the Bill as a whole, and I am opposed to tax the agricultural people. My object in moving this motion is to save the rural population from the operations of this Act. Sir John Woodhead has said that the tax would not be high. I do not dispute that point, but my question is whether the people of rural areas have the capacity to pay any further tax. If the Hon'ble Sir John Woodhead disputes that point, then I would ask him to go to the Board of Economic Enquiry and take their advice. The other day we got a note from the Board of Economic Enquiry in which they painted the true picture of the district of Faridpur. I would appeal to the Hon'ble Sir John Woodhead to go through that report and think twice before he proceeds with

this Bill. It would be a folly on our part to allow this Bill to be passed without any word of protest. Sir, we are going to tax those people who cannot have even two meals a day. I would not make any more remarks than appeal to the Hon'ble Sir John Woodhead that at least the rural population of Bengal should be exempted from the operations of this Act.

Mr. DEPUTY PRESIDENT: I may inform the House that I propose to have one discussion on amendments Nos. 71, 74, 77 and 78.

Maulvi SYED MAJID BAKSH: Sir, I do not think that a word from me will be necessary to point out to this House the difficulties under which we are labouring to find that this Tobacco Bill, which many of us expected would apply to the rich people, is going to be applied to the poorer classes. The previous speakers and the movers of the amendments have amply made it clear that the present condition of the rural population of Bengal, a majority of whom, I should say a very big majority of whom are agricultural people, is very bad and still they are going to be taxed by this Bill. I understand the arguments advanced by the Hon'ble Sir John Woodhead in favour of this Bill that the tax is going to be light and that as it is not a tax but a license fee, it would not tell very hard on the people. But there is one aspect of the question to which the Hon'ble Member has not directed his attention, namely, the reception of the Bill amongst the persons whom it is going to affect. The people of our country are of a sentimental nature. If you can appeal to their sentiments successfully, they will give you the money you want, but if you wrongly tax them, they will oppose it tooth and nail. I am not pessimistic in this respect, but I doubt not that this Bill will provide a very potent cause for a fresh start of agitation which many of us are now finding to be not at all in existence. I can argue in my own way that if we give up rural Bengal, a certain amount of tax will be lost to the exchequer. The principal and the only remedy, to which I might draw the attention of the Hon'ble Member, is that if he thinks a fraction of the revenue—of course I do not think that it is a very big fraction—but if he thinks that a considerable fraction of revenue is going to be lost to him by the acceptance of this amendment, then I can only point out that the best remedy will lie in enhancing the amount of taxation in the municipalities, cantonments and railway stations rather than putting in a small amount of tax in the rural areas as well. To my mind the objection can be met in that way, but to force the taxation in the teeth of opposition upon a people who really do not understand what the difficulties of the Hon'ble Member are and who do not understand what pressure the Central Government is putting upon the Hon'ble Member will be, to say the least of it,

is injudicious. I am not drawing the attention of the Hon'ble Member to the question whether tobacco is a luxury or a necessity: I am only drawing the attention of the Hon'ble Member to the fact that what we understood at the time when the Bill was introduced was that both leaf and ball tobacco would be excluded. We are all in favour of a tax on *biris*, whoever might manufacture them, or, on cigarettes or on any other kind of tobacco which is in such a form as can be smoked by rich people. But I do not find myself in agreement with him when he proposes to tax the poor man's *hooka*, or leaf tobacco (which is an agricultural product), a tax on which, as I suggested on an earlier occasion, would be a tax on raw material, which would be unscientific, uneconomic and injudicious. I am going to point out that taxation on ball tobacco is little better than that.

Mr. DEPUTY PRESIDENT: Please restrict yourself to the subject of the "areas" which we are now considering.

Maulvi SYED MAJID BAKSH: The Hon'ble Member made a very long speech in moving his motion, in which he said many things, to which I might with your permission reply.

Mr. DEPUTY PRESIDENT: You will get an occasion to do so when this aspect of the question is considered through other amendments or at least on the occasion of the third reading.

Maulvi SYED MAJID BAKSH: On that occasion too, Sir, the same objection may be raised that it does not pertain to the matter under discussion.

Mr. DEPUTY PRESIDENT: But it would be better if you restricted yourself to the matter under discussion. Please do not go into the general question now.

Maulvi SYED MAJID BAKSH: But I am afraid that when any other person refers to this, the same objection will be raised that he is going out of the point. But as the Hon'ble Member made a long speech in dealing with the various aspects of the Bill——

Mr. DEPUTY PRESIDENT: You, too, could have done that before when the Hon'ble Member moved that the Bill be taken into consideration. He has not spoken on this motion yet. We are now discussing clause 1 and certain specific amendments to it.

Maulvi SYED MAJID BAKSH: All right, Sir. The very modestness of the request can be perceived from the very expressions used in the language of the amendments, viz., to restrict the Bill to municipalities, cantonments and railway stations in Bengal. There is one which says that it shall not apply in any municipal area inhabited by less than 6,000 persons and in a village inhabited by less than 500 persons. There is another again which in an indirect way wants to restrict the Bill to non-union board areas, but, Sir, they all mean the same thing. I would like to suggest that in these days of economic depression, this small tax might prove to be the last limit. We all feel with the Hon'ble Member the difficulties under which he is labouring, and we all agree to help him. In fact, in many of his taxation Bills we have actually helped him, we, who on former occasions practically differed from him. But, Sir, in this particular case we are not wanting to delete the Bill altogether, but we are going to restrict the Bill to certain areas and if it proves difficult for him to raise the entire amount that he desires to raise, it may be very well got by raising a little more the amount of taxation on other items. If what he is concerned is the quantum of taxation, I would not object to it, but I would even go to some extent and support his Bill, if he accepts the amendment or if he can himself devise an amendment by which he could meet our definite views in the matter that taxation should not be imposed in the rural area and incidentally on the agricultural population. Then again, Sir, there is one thing in this Bill which I cannot exactly follow, and I would like to be illuminated on this point either by the Hon'ble Member himself or by his Secretary. In the Bill as it was introduced, there was a Statement of Objects and Reasons—I do not know whether it still appears in this Bill—in which a money amount of license fees was given, but in this Bill I do not find anywhere the amount of taxation that is going to be imposed. Surely, the Hon'ble Member does not wish us to take a leap in the dark and leave the amount of taxation in his hand so that it might be manipulated to any amount later on? May we have a statement on this point from him or from his Secretary?

Mr. DEPUTY PRESIDENT: That point will be discussed when we come to clause 5. You will have your opportunity at that time.

Maulvi SYED MAJID BAKSH: But, Sir, that is not quite regular, for the movers of the amendments in that case are introducing amendments which fix a certain amount of fees per annum, but supposing all those amendments are not moved or, if moved, they are lost! Where then is the clause here in the Bill that will determine the amount of the tax that is going to be imposed? With these remarks I support the motion.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I support the amendment moved by my friend Maulvi Abul Quasem. He has placed before the House the general grounds on which he pressed for his amendment. Sir, I know it is very difficult to convince the Hon'ble Sir John Woodhead that he is on the wrong track in proposing such taxation. As a matter of fact, it is very difficult to convince him of anything from this side of the House. He is always inclined to stick to his own views. Of course, he is generous enough to concede a similar consistency on our part also. But it looks as if we are never going to agree on any one point. However, I am not so hopeless as my friend Maulvi Abul Quasem of the utility of placing anything before the House. It is a valued privilege, and I do not see why we should not take advantage of it. The privilege is that from this side of the House we get opportunities when the Council is in session to instil wisdom into the occupants of the Treasury Benches. Sometimes we are successful and I hope—well my friend Mr. Basu says we are never successful, but I do not subscribe to that view. For more than once we have been able to bring the Government round to our point of view, if not immediately, at any rate, later on. However, I think that in view of the serious objections that have been placed in connection with this amendment, the Hon'ble Member in charge will be able to accept it. I think it is also in the interest of Government to accept this amendment. After all, Government expect to raise about Rs. 3 lakhs only from this tax, or Rs. 5 lakhs, as I am corrected by the Hon'ble Member. But it is not a very big sum, and I think it would not be worth while if in the wake of the process of raising this taxation, there is discontent and dissatisfaction in the countryside. It is not only a simple question of taxation, but in the wake of that taxation there is bound to come something else, and that is oppression by the underlings of the department. It gives extensive powers to excise officers and other officers of Government who can harrass the people on the pretext of their being in possession of tobacco and under the cover of discharging their duties. In such cases it is very difficult to get redress and to bring home the charges of corruption against the people concerned. Even at district headquarters such cases of oppression and corruption go unpunished, undetected and they are generally uncomplained of. In the rural areas the mischief is greater. In the process of raising this Rs. 5 lakhs Government will be imposing hardships on innumerable people scattered all over the province—not rich people—but poor people who eke out their livelihood by earning a pittance in small shops catering for the needs of the poor. If they have to take out a license, it is not anywhere mentioned in this Bill who is going to grant them that license. If that license is to be granted by the District Magistrate at the district headquarters, these shopkeepers will have to go to the

district headquarters to obtain the license and that will entail a certain amount of travelling and other incidental charges, which one has to meet in securing a license or permit from the district authorities. Sir, we know that the fee for a gun license is very small, but those who have any experience in such matters will be able to tell you how much they have to pay for a gun license—either directly or indirectly—before they get that license. Perhaps, the favoured few do not have to pay anything in excess of the prescribed fee. But the ordinary gun license-holder in the mufassal knows to his cost what he has to pay. Well, Sir, there is that danger; and it is not a question of 4 annas a month, which the Hon'ble Sir John Woodhead, drawing Rs. 5,000 and odd a month, is naturally not willing or disposed to consider as a big sum.

The Hon'ble Sir JOHN WOODHEAD: Sir, I do not wish to interrupt; but is Mr. Ray dealing with the amendment which is now before the House?

Mr. SHANTI SHEKHARESWAR RAY: I think I am perfectly in order. The Hon'ble Member may not consider it to be a big sum, but the poor hawker or the poor shopkeeper, who earns perhaps only 4 annas a day, will consider it too much—not only that 4 annas *plus* several rupees which he will have to pay in order to obtain the license from the district authorities. Sir, on these considerations it is better to omit the rural areas, at any rate, for the present. It is not only a question of hardship for the poor license-holder, but it is a question of efficient and proper supervision on the part of Government too. It would be practically impossible for the Government or the district authorities to exercise effective supervision in administering this Act if it is extended to the rural areas. Either there will be people who will evade the provisions of this Act or there will be others who will be unnecessarily harassed as a result of the penal provisions of this Bill. Sir, I would press for the exclusion of the rural areas on more general grounds—on political considerations—which perhaps the Hon'ble Member in charge of the Bill has ignored. Sir, during the last two years or more the people of Bengal—especially in the rural areas—have heard a lot about the efforts of the Government of Bengal for the economic development of the province, the efforts of the Government of Bengal for relieving the distress of the people; they have also heard a lot about the Board of Economic Enquiry; they have heard a lot about the Rural Development Bill; they have heard a lot about the Bills that are not yet before the public for granting relief to the indebted agriculturists. They have been expecting some relief

for some time to come; but where is that relief? No relief is yet in sight. So far as the Rural Development Bill is concerned, the Hon'ble Member in charge of the Bill told us the other day that although he intended to get this Bill passed by this House, he expected that it would be worked by the authorities under the new constitution.

Mr. DEPUTY PRESIDENT: Mr. Ray, will you restrict your remarks to the motion?

Mr. SHANTI SHEKHARESWAR RAY: Very well, Sir. The people in the rural areas who have been hearing a lot have not got anything yet, and I want these people to be exempted from the operation of these taxation measures. The Primary Education Act and the Rural Development Bill—which is not yet an Act, but simply a Bill—are the two items about which the people have heard and are hearing: they are also hearing about these taxation Bills. There was an expectation that they would get something in return. They expected to get free education at least; and also that they would get greater profits from their land. But what about these Bills of taxation? What relief do you want to give to the rural areas by imposing these taxes? In the rural areas the feeling will be that the Government of Bengal, as at present constituted, have been merely playing with words. The hopes held out to them of giving relief, of giving free education, and of enriching the soil, are mere talk; they are meant only to delude them. Here is a piece of taxation measure for which there is no justification till the new constitution is ushered in. But you want immediately to enforce it and take out money from the poor man's pockets and give them nothing in return. The political reactions will be very serious.

(At this stage the member, having reached the time-limit and having asked for a little more time, was allowed by the Chair to continue his speech for one minute.)

These small shopkeepers and vendors in the countryside will be against the Government; and I submit that at this stage Government should do nothing which would create a prejudice against the Government in the minds of the rural people.

Mr. W. H. THOMPSON: Mr. Deputy President, Sir, this has rather been a wandering discussion, and I think a good deal of sentiment has entered into it. I was surprised at the heat with which the mover of the first amendment spoke. I think there is a good deal of sentiment behind this. But what members are really thinking of is,

probably, what the last speaker has mentioned, namely, petty oppression. You can imagine, Sir, an excise peon, in uniform, going through a *hât*, sees a hawker and exclaims:—

"ওরে, হতোর ব্যাটা, তোর কাছে কি আছে? বিড়ি আছে দে আমাকে চার আনা"—'না আমি পরিব। আমার কাছে পয়সা নাই। দিতে পারি না।" "আচ্ছা এক বাণ্ডিল; বিড়ি দিয়া যাও"।

No doubt, Sir, it will be very annoying to the poor hawker to have to give away his *birís* in that way. But I submit, Sir, that in this case he has a very easy remedy. The license only costs a rupee and it lasts a year. If he will be safe from further oppression for twelve months I would like, Sir, to draw the House away from considerations of sentiment and come to practical politics. I have criticized all these taxes on the ground of their incidence. The taxes—at least four of them—fall almost exclusively on the people of Calcutta and of the urban areas. This is the one Bill which touches the rural areas. Now, Sir John Woodhead has put it to us that the Government of India have told us that we must show ourselves willing to do our best by taxing ourselves to put our house in order. (Mr. NARENDRA KUMAR BASU: "Not by taxing ourselves.") That, Sir, is the only way to do it "by taxing ourselves." Suppose, Sir, this House took the line of passing the other four Bills and of throwing this Bill out. What would the gesture mean? It would mean that the Bengal Legislative Council was prepared to tax Calcutta—was prepared to tax the towns—but definitely and particularly refused to tax rural Bengal. What, Sir, will the Government of India say to that? What will the members of the Assembly in Delhi say to that? However, what the Government of India or the Legislative Assembly will say is to my mind of comparatively less importance. The important consideration before us is to create the right impression on that impartial Enquiry Committee on Federal and Provincial Finance, which is to come. On the result of that enquiry, on the proper upsetting of the Meston Settlement, as a result of that enquiry, depends all our future in Bengal. Now, who will make up the personnel of that Enquiry Committee? Maulvi Abul Quasem mentioned the name of Lord Meston, although he said that Lord Meston was not responsible for the decision last time, but he had a part in that responsibility. He is the sort of person who will be amongst the personnel of the next Enquiry Committee and he did not favour Bengal 15 years ago. It is that sort of person on whom we have got to create the right impression. There will be Indians on the personnel of that Enquiry Committee or examined as witnesses. Most of them will be Indians from other provinces. The opinions of

persons from other provinces will certainly be taken, and these opinions will certainly prove a strong factor in influencing the decision. Indians from other provinces ask themselves why Bengal is a poor province, and the answer they give themselves is the Permanent Settlement. They know the incidence of land revenue in this province is low and that rural areas are taxed much lower than elsewhere. When we try to give them the impression that we are doing our best by trying to tax ourselves in order to put our own house in order, they from their own outlook will look to our willingness to tax not only the towns—not only Calcutta—but to tax the rural areas. We should, I feel, be making a very great mistake if we excluded the rural areas from the operation of this Bill. It would have the effect of excluding the rural areas from the whole scope of the taxation covered by the five Bills which have been introduced.

Maulvi TAMIZUDDIN KHAN: Sir, I had no intention of taking part in this debate, but the speech of Mr. Thompson has somewhat surprised me. I find myself in agreement with Mr. Thompson on most occasions, and therefore it is somewhat depressing to me to find that I am not in agreement with him on this occasion. He says, Sir, that the five taxation Bills—at least most of them—are confined almost exclusively to Calcutta. Sir, I do not know why Mr. Thompson says so. We have already passed two of these taxation measures, namely, the Electricity Duty Bill and the Court-fees (Amendment) Bill. As regards the former we all know that it applies to the whole of Bengal, but is not confined to Calcutta. It may operate a little more heavily on Calcutta than on the other municipal towns.

Mr. DEPUTY PRESIDENT: Mr. Thompson meant urban areas, and also Calcutta.

Maulvi TAMIZUDDIN KHAN: Therefore, I do not think it is right to say that we have exclusively taxed Calcutta by this measure. The Court-fees (Amendment) Bill which has been passed to-day also applies to the whole province. So also the stamp measure which will come up to-morrow or the day after will apply to the whole of Bengal and the Amusements Bill will also apply to the whole province. Therefore, I think Mr. Thompson was not right when he said that so far we have almost exclusively taxed Calcutta and we are out to exclude mufassal and rural areas. If we look at the Punjab measure, as far as I know, there also it will be seen that it is not extended to the rural

areas. It is also, I think, if I am right, confined to urban areas. Therefore, in trying to exclude the rural areas, Maulvi Abul Quasem and Dr. Sen Gupta have not come forward with any novel proposition, but they have got precedents for their proposal. Why are the rural areas proposed to be excluded? For the simple reason that the rural people are in very great distress; they cannot make their two ends meet; they are almost on the verge of starvation. Is it at all right and proper in these circumstances that we should tax these starving people? But I would appeal to Sir John from another point of view. How much do we expect to get from extending this measure to the rural areas? As far as I know, there will be very few taxpayers under this measure from the rural areas. I do not think it will exceed Rs. 50,000. Therefore, I think if the rural areas are excluded we shall not lose much, but at the same time we will satisfy the rural people. There is almost scare in the villages about this Bill; and there is no gainsaying the fact that some harrassment of the people will follow in the wake of this measure. Whoever may be placed in charge of administering this measure, some oppression will be done to the rural illiterate people. Therefore, if these rural areas are excluded we do not lose much, but on the other hand a good deal of apprehension will be allayed and also if the Government is pleased to accept this motion, I think it will satisfy a very large section of the non-official elected members of this House. With these words I support the motion for restricting the operation of the Bill.

Mr. NARENDRA KUMAR BASU: I rise to support the amendments moved by Maulvi Abul Quasem and Dr. Naresh Chandra Sen Gupta. My opinion as to the general policy of these taxation Bills is now well known to the House, and I shall not at this stage repeat those objections, though I am tempted to say that by this Bill Sir John Woodhead seems to have discovered, rather rediscovered, Aladdin's lamp. He says that the tax under this Bill will not be any burden either to the consumer or to the vendor, but will bring in a lot of money—Rs. 5 lakhs—to the coffers of the Government of Bengal, that is to say, without disturbing any pockets, the coffers of the Government of Bengal will be filled by about five lakhs of rupees. I shall touch upon that aspect later on at the third reading of the Bill when it comes to that stage. At the present moment I submit that the arguments advanced by Mr. Thompson, if I may say so without disrespect, are unsound. Mr. Thompson has told the House that if we accept these two amendments or either of them, it would land us into a very unpleasant position before the Financial Enquiry Committee, whatever the name may be. Mr. Thompson is under the impression that Indians of different provinces would be represented on that Committee. There

I think he is initially wrong. So far as that Committee is concerned it will consist of two or three independent men out from——

Mr. S. M. BOSE: Home.

Mr. NARENDRA KUMAR BASU: My home is not in England. I am a poor Indian—a native. I say that that Committee will consist of financial experts, independent men out from Great Britain, that is to say the sentiment of jealousy of other provinces towards Bengal or the sentiment of jealousy of Bengal towards any other province will have no place in that Committee and they will judge us on the merits of the case. What are the merits of the case? As regards the merits of the case, so far as rural Bengal is concerned, the people there, as has just been pointed out by Mr. Tamizuddin, are absolutely unable to bear any fresh burden of taxation. That has been admitted, so far as this province is concerned, in the highest quarters; that has been admitted by the Government and by all the members of Government from time to time, and that is a point which does not require any labouring. I submit that the proportion of the proceeds of the uncertain tax under this Bill (I say uncertain because that is left by the Bill to be prescribed by rules of the Local Government) whether the tax to be imposed will be 8 annas, 1 rupee, 10 rupees or 20 rupees is left to the sweet will of the Local Government, that will come out of rural areas will not be much.

Then with regard to the administration of the Bill itself, as has been pointed out by the previous speakers and as I had the honour to point out when this Bill was introduced, you are going to leave the administration of the Act to the Excise Department. I must say that the reputation of the Excise Department for petty molestations is not very good. It may be that the Hon'ble the Finance Member has not much experience of the working of the Excise Department. I find the Hon'ble Minister shaking his head, but I will ask him to tell the House whether he has or has not heard it stated by the highest judicial authority that so-called confessions made to excise officers are inadmissible because the ways of the excise officer to get confessions are almost as bad as that of the traditional police in Bengal. I would ask the Hon'ble Minister to say whether he has not heard of the existence of excise clubs in the mufassal almost as notorious as the police clubs. I will ask the Hon'ble Minister for Excise to say whether he has not heard that the underlings of the department commit as much oppression, rather alleged oppression, upon the poorer section of the community as the police does. I am not here to vouch for the truth of the allegations made. They may or may not be true. I would ask the responsible

authorities to say whether stories like this do or do not come up before them. A very small proportion of them comes up to the courts. That is my experience as I have to deal some times with cases of the Excise Department. If you extend the operations of this Bill to the itinerant vendors in the Bengal villages, the danger will be there and that for the purpose of bringing in Rs. 2 lakhs. If the proportion of money which will come to the coffers of the Government is Rs. 2 lakhs from the rural areas, I submit that in order to get that Rs. 2 lakhs you will have to make the people—the poor peasantry from which these hawkers come—spend at least Rs. 5 lakhs. My submission is that the gain which you expect to have by extending this Bill to the mufassal will be hardly worth the trouble, and the expense which you cause not only to yourself but to the people. I say that if the excise officers are to go and visit all the villages in rural Bengal, you will have to increase your excise staff most inordinately, and if you want to protect the rural population of Bengal from depredations of officers of the Excise Department, who under this Bill will have the right in some cases to arrest without warrant, I submit the harrassment, the oppression, the misery caused to the poor people will be immense. I submit, as has been pointed out by previous speakers, the game is not really worth the candle. Why should the Finance Member not listen to the united voice of the Opposition of the House? I am confident that at least for this once he will be inclined to accept the words of wisdom which always flow from the Opposition.

The Hon'ble Sir JOHN WOODHEAD: I find it difficult to deal with the arguments which have been used in support of this amendment to restrict the geographical application of the Act, for members in their speeches have covered the whole field not only of the amendments but also of the arguments for and against the imposition of any additional taxation at this juncture. I do not, however, propose to deal with the majority of those arguments again. I have already dealt with them before and little will be gained by my repeating once more the arguments I have used on previous occasions.

Maulvi Abul Quasem (I found it rather difficult to follow him) at one stage said that if the 5 per cent. cut had not been restored he would have supported the Bill. I will deal with this matter again, although I have repeatedly explained the position. I fear, however, Mr. Quasem will not believe me and that I shall not be able to convince him. I still maintain the position that the taxation Bills have not been introduced in order to provide money for the restoration of the 5 per cent. cut in pay. The estimated deficit on revenue account for the year 1935-36 is about Rs. 69 lakhs and Rs. 17 lakhs of this is represented by

the restoration of the cut in pay. That leaves Rs. 52 lakhs. And even allowing for Rs. 24 lakhs as the proceeds of the additional taxation, there still remains a deficit of more than Rs. 17 lakhs. Maulvi Abul Quasem spoke a lot about rural Bengal. He wishes to save rural Bengal. He does not, however, object to the taxation provided for in this Bill being imposed on urban Bengal, but yesterday I believe he attempted to save urban Bengal. If I remember aright, he voted against the Electricity Bill. Is there not something inconsistent in his attitude?

To deal with the first amendment which seeks to limit the extension of the Act to municipalities, cantonments and railway stations. That would mean that in every town which is not a municipality, in every large market outside municipal limits a taxation would not be imposed. I can see no reason why at places which are large business centres, for instance, Sibchar and Ashuganj in Faridpur and Tippera districts, at places where there is a considerable number of large shops, the shopkeepers of these places should be exempt from this taxation while the shopkeepers in small municipalities, for instance in places like Rajbari, should be liable to the taxation. Is it not inconsistent to exempt shops in large markets and in towns which although they have not reached municipal status are nearly as large as many municipal towns,—for instance Kharagpur although a fairly large town is not a municipality —and yet to extend this taxation to municipalities.

Then, Sir, as regards the loss of revenue, we have made rough calculations and although they do not pretend to be accurate they are some guide to the probable financial effect; the amount of revenue which we are likely to lose will be about Rs. 3½ lakhs. In fact, the estimated revenue from the municipalities is Rs. 1,29,000 and the rest, over Rs. 3½ lakhs, comes from what is described as rural Bengal.

Then, Sir, I come to Dr. Naresh Chandra Sen Gupta's amendment. He proposes to limit the operation of the Act to such municipal towns, *hâts* and bazars as are notified by Government in the *Calcutta Gazette*. I believe that in East Bengal and also in North Bengal there are few shops in the villages; in those rural areas the shops are situated in the local markets and *hâts*. So the adoption of Dr. Sen Gupta's amendment would be practically tantamount to extending it to the whole area in East and North Bengal. There are, however, considerable administrative difficulties in adopting a proposal of this nature. How are we to define a *hât* or a bazar? Is it to be defined with reference to the village in which it is situated or in accordance with the actual boundaries? The latter method would be a tremendous task. Again, a vendor could avoid the tax by placing his shop outside the notified

area. If an area around the *hât* were included within the notified area of the *hât* so as to prevent that form of evasion the result would probably be that the intention of this amendment would be defeated, because shops in places other than *hâts* and bazars would be included within the operation of the Act. Again, if the operation of the Act is limited to a particular *hât*, it would encourage evasion for it would be possible for a vendor to keep his stock of tobacco outside the *hât*, take orders in the market and issue the tobacco sold from his store a few yards away from the *hât*. There are obvious administrative difficulties in extending it only to notified *hâts* and bazars. But Dr. Naresh Chandra Sen Gupta supported his proposal on the ground that the Government staff was not sufficient to deal with the whole province. At present we do not propose to increase our staff to any large extent in order to collect this tax. We hope it will be possible to collect the tax by means of the existing staff *plus* a small additional staff, either the excise staff or other staff employed in the mufassal. The tax has only to be collected once a year. We do not propose to have a staff wandering round the whole province and harassing the people every week or every month. The tax will be paid once a year and having been paid, contact between the vendor and the collecting staff will largely cease. If vendors desire to pay the license fees by money order, I do not anticipate that we shall raise any objection. That would enable the vendor to avoid all harassment It is all very fine for Mr. N. K. Basu sitting here in this Council to make general allegations against the officers of Government, excise officers, police officers and other officers; to describe the police clubs as places where schemes of oppression are concocted, and then to guard himself by saying he, of course, does not know whether the reports of oppression and dishonesty are correct or not. If he is not certain of his ground, he should not make general allegations of that character. His allegation appeared to be that everybody in the Excise Department is guilty of oppression. Is he not aware that there are many highly educated *bhadralok* officers belonging to the highest castes in the Excise Department? Does he place all these in the same category? There are black sheep in every fold, but, Sir, I take the strongest objection to allegations, general in character, which convey the impression that every person who becomes an official immediately becomes a person who is willing to oppress his fellow countrymen.

Mr. NARENDRA KUMAR BASU: Nobody said that.

The Hon'ble Sir JOHN WOODHEAD: It practically amounts to that. Dr. Sen Gupta tried to draw a red herring across the track by

referring to an increase to our revenues of Rs. 38 lakhs. That was of course the difference between half the jute duty for the year 1934-35, on a 12 months' basis and on an 8 months' basis. It does not in any way affect our revenue receipts in the year 1935-36. Dr. Sen Gupta knows that as well as I do and knowing it avoided explaining explicitly the exact nature of that increase of Rs. 38 lakhs. Our receipts this year (1935-36) are absolutely unaffected by that additional receipt of Rs. 38 lakhs in 1934-35.

Rai Bahadur Satish Chandra Mukherji at the last minute altered his amendment, and I feel sure that when he drafted his amendment, his reasons were not quite the same as those he has now put forward. He has changed his mind somewhat. His original amendment was that any municipal area with not more than 6,000 inhabitants and that any village with not more than 500 inhabitants should be exempted. That would have meant that a municipality with less than 6,000 inhabitants would be exempted, but a village immediately adjoining it with say only a thousand inhabitants would be lible to the taxation. He wisely altered his position. But does it follow that the vendors in a small village—a village with a population of less than 500—are all small vendors and that in larger villages the vendors are all large vendors? I have always thought there was a fallacy in such a proposition. Does it follow that the removal of the small villages from the operation of the Act will result in the exemption of the small vendor from the proposed taxation? I believe not, the small village has not the monopoly of the small vendor.

Babu Amulyadhan Ray wishes to exempt all areas within the jurisdiction of union boards. He must have forgotten that Midnapore has no union boards. If he had remembered that, I doubt whether he would have put forward his amendment.

Sir, I have very little more to say. If we are to impose this small license fee, then I suggest that it should extend and apply it to the whole province. There seems to be little justification for drawing a distinction between a municipal and a non-municipal area or between a bazar and a village. If we are to have a small license fee of this character, it should be uniform everywhere throughout the province. I oppose these amendments.

The following motion—

"That for clause 1 (2) the following substituted, namely:—

'(2) It extends to all municipalities, cantonments and railway stations in Bengal,' "

being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hussan.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Hamai Akmr.
Faziullah, Maulvi Mphammad.
Hakim, Maluvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Mr. Hashem Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. S.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mahendra Behary.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Ameiyadhan.
Ray, Mr. Shanti Shekhareswar.
Sarkar, Babu Nagendra.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Sulaiman, Maulvi Muhammad.

NOES.

Afzal, Nawabzada Khwaj Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emadeddin.
Arthur, Mr. G. S.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Muhammed.
Basu, Babu Jatindra Nath.
Basu, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. S.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chowdhuri, Khan Bahadur Maulvi Alimezzamen.
Cohen, Mr. D. J.
Das, Babu Surapresad.
Dutt, Mr. S. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. S. H.
Ghose, Rai Bahadur Saroska Coomar.
Gilchrist, Mr. R. N.
Gladding, Mr. P.
Guha, Mr. P. N.
Hoque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Lamb, Mr. T.
Lawson, Mr. G. W.
Lockhart, Mr. A. S. E.
Maguire, Mr. L. T.
Martin, Mr. O. M.
Mittar, Mr. S. C.
Mittar, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Shiroendra Nath.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nag, Babu Sak Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimeddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Mr Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Satiswar Singh.
Ray, Mr. Sarat Kumar.
Ray Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen, Rai Bahadur Jogesh Chandra.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Steven, Mr. J. W. R.
Thompson, Mr. W. H.
Townend, H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 26 and the Noes 63, the motion was lost.

Then Dr. Naresh Chandra Sen Gupta's motion (No. 74) was put and Dr. Sen Gupta claimed a division.

Mr. DEPUTY PRESIDENT: I shall now adjourn the House and take the division when we reassemble.

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

Mr. DEPUTY PRESIDENT: In order to ascertain the views of the House I shall again put Dr. Sen Gupta's amendment to the House. If any member is dissatisfied with my declaration, he may demand a division.

Dr. Sen Gupta's motion being put again, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Baba Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhuri, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Hussain, Maulvi Muhammad.
Khan, Mr. Hashem Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Bashir Uddin, Khan Sahib Maulvi Muhammad.
Basu, Mr. S.
Benjamin, Mr. N. G.
Blandy, Mr. E. O.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Cohen, Mr. D. J.
Das, Babu Guruprosad.
Dutt, Mr. S. S.
Faroqui, the Hon'ble K. S. M., Khan Bahadur.
Ferguson, Mr. R. N.
Gilchrist, Mr. S. R.
Gladding, Mr D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hosmon, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Lamb, Mr. T.
Lesson, Mr. G. W.
Lockhart, Mr. A. S. E.
Maguire, Mr. L. T.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Shirendra Nath.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. S. A.
Nag, Babu Sak Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. S.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Hariharan.
Roy, Mr. Sailesvar Singh.
Roy, Mr. Sarat Kumar.
Sahana, Rai Bahadur Satya Kinkar.

Sen, Rai Sahib Akshoy Kumar.	Townend, Mr. H. P. V.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.	Walker, Mr. R. L.
Stevens, Mr. J. W. R.	Wilkinson, Mr. H. R.
Thompson, Mr. W. H.	Woodhead, the Hon'ble Sir John.

The Ayes being 21 and the Noes 58, the motion was lost.

The motion of Rai Bahadur Satish Chandra Mukherji was, by leave of the House, withdrawn.

The motion of Babu Amulyadhan Ray was then put and lost.

Mr. DEPUTY PRESIDENT: Motions Nos. 72, 73, 75 and 76 all relate to the time-limit of the operation of the Bill. If there is no objection, I would like to take them together and have one general discussion on them.

Mr. P. BANERJI: Sir, I beg to move that in clause 1 (3), in line 4, for the words "three years," the words "one year" be substituted.

Sir, now that the Hon'ble the Finance Member has found his way to make this Bill temporary for three years, I find no reason why he should not accept this modest demand from this side of the House for limiting the duration of this Bill to one year. There is no justification whatsoever for retaining this Bill for three years when Government admit that it is a temporary measure, and when they say that things are looking up and perhaps there are prosperous days ahead. It is, therefore, in the fitness of things that at the end of another year we could then from the experience gained be in a better position to ascertain where we stood. It will not take the Government long if they desire to bring up this measure at the close of the year and move another motion for extending it for another year or from year to year, for the simple reason that every year we have to consider the Budget; and, as it has been so reasonably suggested by Dr. Sen Gupta that as a result of the propaganda carried on by the Members and Ministers of Government and by others in different parts of the province, it is quite natural that the restriction in the cultivation of jute will bring in a larger price for that commodity. Therefore, it is quite possible that at the end of the year there may not be any occasion for the Government to continue these measures at all, particularly this Bill, to which so much opposition has been offered from this side of the House. Still, Sir, in spite of the arguments adduced by the Hon'ble Member in charge, most of the members on this side of the House remain unconvinced. (REV. B. A. NAG: "Only 21.") I admit that the number

is only 21 or near about, but they are in a majority in view of the fact that, circumstanced as we are to-day on account of the present constitution, Government have got so many supporters and we do not count much against them. There is the official block; there are also the nominated members.

Mr. K. C. RAY CHOWDHURY: On a point of information, Sir. Is the hon'ble member entitled to make any reflection on the non-official nominated members?

Mr. DEPUTY PRESIDENT: Certainly not at all.

Mr. P. BANERJI: Sir, then I shall come to another group of nominated members. I submit that the time is fast approaching when under the new constitution we shall have to do away with these nominated members. (Laughter.)

Mr. DEPUTY PRESIDENT: Mr. Banerji, please confine yourself to the subject-matter of your amendment.

Mr. P. BANERJI: Yes, Sir, I was just making my submissions to you on the question that was raised by one nominated member; otherwise, I would not have introduced this unpleasant topic into this discussion.

Mr. DEPUTY PRESIDENT: Mr. Banerji, you must not make any remarks regarding the present constitution of the Council.

Mr. P. BANERJI: Now, Sir, my submission, as I have said before, is a very modest one. If the Government say and the Hon'ble the Finance Member says in reply, as we may very well anticipate it, that it will not be possible for Government, and that the Hon'ble Finance Member will not be able to take stock of the situation at the close of the financial year, might I reply in that case: "There will be time enough for bringing in another motion before this

House." I think that there is no chance that there will be a dissolution of this Council before that time, and even if there be a dissolution some time would elapse before that takes place. I do not think that a dissolution will take place unless and until all the Bills which the Hon'ble the Finance Member has brought forward are either passed or hurried through this Council.

Sir, as I find that there are many members impatient to speak on my amendment (laughter), I need not speak much. I would only close my observations by saying that Government cannot possibly strengthen their case on this particular point by any arguments or reasonings whatsoever against the arguments that have been adduced by us from the very beginning of the discussion right up till now.

With these words, Sir, I recommend my amendment to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I rise to support the amendment. The Hon'ble the Finance Member has characterised my reference to the Budget position as drawing a red herring across the path.

Mr. DEPUTY PRESIDENT: Dr. Sen Gupta, you need not go back on a debate that is finished otherwise the discussion will be endless.

Dr. NARESH CHANDRA SEN GUPTA: Very well, Sir. I shall not do it. What I want to say is that the justification for limiting the Bill to one year is this: Next year it is quite possible that we may not require the five lakhs which the Hon'ble the Finance Member wants to get out of the Tobacco Tax. I think I have sufficient knowledge as regards the financial position of this province. The Bengal Government's financial position is now better by Rs. 38 lakhs. The Hon'ble Member has characterised my remark as drawing a red herring across the path, because he says that the year 1934-35 is already closed and the Rs. 38 lakhs goes to that year. We begin with a clean slate and on a new page and there is nothing of that Rs. 38 lakhs left. It is not like that: the Bengal Government will not have a new financial life; but for the Rs. 38 lakhs the Bengal Government would have had to carry on to next year a further debt to the extent of Rs. 38 lakhs and they would have to look forward to the addition of the deficit of next year to that debt. Therefore, the Bengal Government's financial position is better to the extent

of Rs. 38 lakhs and no amount of juggling with figures will get you out of this patent fact. That being the position, Sir, I was suggesting that the Government might make some concession which would amount to some reduction from the total yield from this source of proposed taxation. Sir John Woodhead is unwilling and is not prepared to agree to this. He is speculating on the figures in the Budget and insisting that there will be a deficit. I happen to differ from his view. But apart from any difference with regard to that, is there any reason why he objects to this Bill being brought up again next year? It is quite possible that at the end of next year there may be a deficit at all. There may be a large recovery—by an excess in receipts from land revenue, in excise or other sources or in our contribution from the jute export duty and for all that there may not be a deficit. The deficit which has been contemplated may not after all materialise, and then there will be no justification for continuing this new Bill.

Sir, the Hon'ble the Finance Member has assured us that Government had introduced these taxation Bills very reluctantly, because it was essential to satisfy the Government of India that we are putting our own house in order. But, Sir, suppose the next year's revised estimates show that our house has been placed in order independently of these new taxes, is there any reason why these taxes should go on for another two years? Why should not the taxes lapse? Well if, on the other hand, at the end of the next year it is found that the deficit remains, then you have to introduce a fresh Bill. If the continuance of this taxation is absolutely necessary to make an approach to the balancing of the Budget, it will be continued from year to year. It is an undesirable thing to make calculations beforehand, but it was done for the purpose of putting our house in order. These new Bills may be continued, if necesary, later from year to year just as the Government of India have their Finance Bills and the Income Tax Bills from year to year. These new Bills are all temporary measures for meeting our present financial stringency. They may very well be put on a temporary footing from year to year and there is no reason why this should not be done.

Mr. S. M. BOSE: Sir, I must say that I am amazed at the arguments put forward by the last speaker. He speaks as if the shortage amounts only to a few lakhs. Is he or is he not well aware that our loan amounts to over two crores of rupees? (DR. NARESH CHANDRA SEN GUPTA: "Are you talking of this year's budget or of that of ten years' ago?") I am talking of the loans from the Government of India during the last few years which have been taken to balance our Budget; my friend is perfectly aware that the deficit amounts to some crores. It is, therefore, idle for him to talk about a few lakhs in regard to our Budget being balanced, and so on.

Then, Sir, the mover of this amendment wants to substitute the words "one year" for the words "three years." Is he not aware as to why the limit of three years was put? It was—as we all know—put for the reason that we hope and expect that in three years we would have the new constitution in being, and that by that time we would get from the Government of India at least half of the jute export duty. It would not be necessary then to continue these taxes. So, we have been able to persuade the Government of India to limit the Bill to a period of three years, and that is the reason for this figure. I am astonished that this point has been brought up at all.

Sir, I oppose this amendment.

The Hon'ble Sir JOHN WOODHEAD: Sir, Dr. Sen Gupta is in a very optimistic mood. I wonder whether he reads the newspapers regularly. If he does, he must have read of the clouds on the political horizon in the West and the effect of those clouds on trade in general. But perhaps, Sir, he is only concerned with the Law, and has not realised that at the present moment there are signs not of a further improvement in trade but of a further depression. Has he realised that 3½ per cent. Government Paper has dropped from Rs. 98 to Rs. 90? Sir, we have been hoping for the last three years that things would improve. I still hope that they will improve; in fact, I am convinced that they will improve. But I am not so optimistic as Dr. Sen Gupta in regard to a large improvement in the year 1935-36 and conditions at the present moment are certainly not such as to make one very optimistic. I am not so optimistic as to expect that we shall have a balanced Budget at the end of this financial year. I would also ask the House to remember that the additional taxation has not yet been imposed. We are already in the year 1935-36. Some time must elapse even after this House has passed the Bills for the Bills to receive the assent of the Governor and of the Governor General. Some further time must elapse before we can complete the preliminary arrangements for the introduction of the Acts. It is, therefore, clear, Sir, that during this year we shall certainly not get a full year's revenue from these new sources of revenue. (Dr. Naresh Chandra Sen Gupta: "Is not the revenue realised for the whole year?") If the Tobacco tax is not actually imposed till about the middle of the financial year, I have little doubt that Dr. Sen Gupta would raise a tremendous protest against the realisation of a full year's license fee for a 6 months' license. Sir, I hope that the House does not want to go through all this trouble every year—at any rate, I certainly do not. If this Bill is to be limited in its operation to one year only, we had better do without it. The period of three years was fixed for all the five Bills, because it was thought that it would carry us over till the

introduction of the new constitution and would allow the new Government time to look round, to review their financial position and decide whether they should come to the Legislative Council for the reimposition of any of the additional sources of taxation.

Sir, I oppose the amendment.

The motion was then put and lost.

Then, the motion that clause 1 stand part of the Bill was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 3rd April, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 3rd April, 1935, at 3 p.m.

Present:

Mr. Deputy President (Mr. REZAUR RAHMAN KHAN, in the absence of the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 95 nominated and elected members.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Dacca-Narayanganj Road.

58. Mr. J. W. R. STEVEN: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state what is the present position in regard to the repair of the Dacca-Narayanganj Road?

(*b*) Is the Hon'ble Minister aware that the District Board have directed that this road should be closed to all traffic from the 2nd March, 1935, but up to now, with the exception of further earth excavations, no preparations have been made for the repair of the road?

(*c*) Will the Hon'ble Minister be pleased to say whether the Ministry of Local Self-Government have anything to do with the delay in taking up the repairs of this road?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Proceedings for the acquisition of land measuring 42 acres for widening the road have been completed. Delivery of possession of all the land acquired except a few homestead lands measuring 4 acres in miles Nos. 5, 6 and 7 has been given to the District Board. Proceedings for acquisition of additional land measuring about 12 acres subsequently required by the District Board have not yet been completed. The earthwork

which could be done without closing the road has been completed, and the bridges have been reconstructed. It is not possible to start the work of metalling until the earthwork is complete.

(*b*) It was originally intended to keep the road open during reconstruction, but owing to the necessity for raising the level of the road above flood-level this has not been found possible. It will be necessary to close the road for one year for the purpose of reconstruction. No date has yet been fixed for such closing.

Contracts for supply of materials for reconstruction of the road have been finally accepted by the District Board and the firm selected has begun work.

(*c*) No.

Mr. ANANDA MOHAN PODDAR: Will the Hon'ble Minister be pleased to state why the earthwork could not be done without closing the road as was originally intended, and why the notification for closing the road was subsequently withdrawn?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the matter was left to the District Board, and probably they found it inconvenient to close the road; they were very likely not ready for the work.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Minister be pleased to state whether the District Board received any instruction from Government in this matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No; the District Board received no instruction from Government. The matter is entirely left to the District Board.

Process-servers.

59. Maulvi ABDUL HAKIM: Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a list of the process-servers who retired during the last three years showing, district by district, separately—

(*i*) the number amongst them who were granted pension;

(*ii*) the number amongst them who were granted gratuity; and

(*iii*) the number amongst them who were granted neither pension nor gratuity?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): The information required for an answer to this question is not readily available and could not be obtained without a laborious enquiry which Government regret they are not prepared to undertake.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Tobacco (Sales Licensing) Bill, 1935.

The discussion on the Bengal Tobacco (Sales Licensing) Bill, 1935, was then resumed.

Clause 2.

Mr. P. BANERJI: With your permission, Sir, I should like to move my motion in a slightly amended form. After the words "other officer," the words "not below the rank of a Deputy Collector" be inserted.

Mr. DEPUTY PRESIDENT: Yes, you have my permission.

Mr. P. BANERJI: Sir, I beg to move that in clause 2 (*1*) (*a*), line 3, after the words "other officer," the words "not below the rank of a Deputy Collector" be inserted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I accept the amendment.

The amended motion was put and agreed to.

Babu KHETTER MOHAN RAY: In this connection, Sir, with your permission, I beg to move the following short-notice amendment, namely:—

That in clause 2(*5*), the words "societies or other similar institutions" and the words "or constituents" be omitted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I am prepared to accept the amendment.

The motion was put and agreed to.

Mr. P. BANERJI: Sir, I beg to move that in clause 2 (6), lines 3 and 4, the words "or chewing or for use as snuff" be omitted.

Sir, the object of my moving this amendment is that the revenue that the Hon'ble the Finance Member expects to receive from sources such as leaf tobacco will be very small. Sir, the quantity of leaf tobacco consumed is very small, and it is generally taken by the females with *pan*.

Rai Bahadur Dr. HARIDHAN DUTT: But that is a bad habit.

Mr. P. BANERJI: Sir, the Rai Bahadur says that it is a very bad habit. But I can prove, Sir, that tobacco is a medicine. It removes pyorrhoea, and it is the only medicine for that disease. Some of the eminent physicians are of opinion that it is so. Sir, tobacco was first introduced in England in the sixteenth century when it was brought from Spain where it came from Mexico, and since the first introduction of tobacco in England, it has all along been considered to be a stimulant and a substitute for narcosis.

Then, Sir, the Hon'ble Finance Member yesterday referred to some of the Native States, Japan and other European countries in connection with these taxation proposals, but the Hon'ble Member took particular care not to mention Great Britain. In Great Britain, Sir, we find that there is no tax on leaf tobacco. There is taxation there for manufactured tobacco in the shape of a duty——.

Mr. S. M. BOSE: There is no leaf tobacco and there is no need for it.

Mr. P. BANERJI: Sir, Mr. Bose says that there is no need for it, but I think that there is certainly need for it. The taxation imposed in England is for the purpose of protecting England from the importation of manufactured tobacco there from other countries, and I maintain that that is why in Great Britain there is no taxation on leave tobacco. But in this country, leaf tobacco is taken by some of our women with *pan* as also by some men in the shape of *sukha* and snuff. Let us, Sir, scrutinize what quantity is taken as snuff. Snuff is prevalent among the research scholars in Bengal; it is used by the *panditz* and *kavirajas*. I call them research scholars because they carry on research work into ancient sciences, medicine and history. Sir, these people cannot consume a very large quantity of tobacco in the form of snuff: but there was a time when snuff became a fashion amongst the school and college boys here. At that time, many manufacturing concerns sprang up, but they no longer exist now. Now, the use of snuff is confined to a microscopic minority of the society.

The same is also the case with *sukha*. Therefore, if these two items are excluded, there will certainly not be any appreciable falling off in Government revenue.

Sir, in this tropical country of ours, tobacco is not a luxury but a common necessity, and it is taken by almost every man in one form or another. Sir, tobacco-smoking is a habit which it is not possible to be given up. When Sir Walter Raleigh was going to be hanged at the scaffold, what did he say? He exclaimed, let me have a smoke at my pipe. Sir, if a man of Sir Walter Raleigh's position can say to his executioner to wait so that he may have a smoke, it can well be presumed that it is a thing which is needed most by those who are habituated to it.

Sir, the Hon'ble Finance Member wants us to follow the example of some Native States, but I consider it derogatory on the part of a British administration to follow a Native State in India.

The Hon'ble Sir JOHN WOODHEAD: Sir, I never said Native States, but Indian States.

Mr. P. BANERJI: It may be that he did not say Native States, but he mentioned the name of Cochin, he mentioned the name of Travancore, and some other States. By whatever names these States may be called by the Hon'ble the Finance Member, we call them Native States. The Hon'ble Member has set them as examples, but I think it is derogatory on the part of a British administration in this country to follow the example of Indian States. The Hon'ble Member has done so only because it suits his present purpose. I could have better understood him if he had followed the examples of the Native States in all matters. But, to suit his purpose, he has quoted Cochin, Travancore and Mysore, because these States have taxed tobacco, and that for the purpose of preventing their people from indulging in these vices and for the purpose of prohibition. But what do we find in British India? There we find that the manufacture of *ganja* is in the hands of the Government. Then, the Hon'ble Member has also referred to Japan. In connection with this taxation measure, the Hon'ble Member wants us to follow the examples of Japan and some of the Native States, but he will be silent in matters in which these countries have made tremendous improvement. Sir, there are legislations for taxing tobacco in other places, but they are meant for manufactured tobacco. Therefore, and particularly because there is no taxation on tobacco leaf in Great Britain, I submit that the Hon'ble Member would be prepared to exempt the tobacco leaf from taxation by accepting my motion. With these words, Sir, I commend my motion to the acceptance of the House.

Rai Bahadur SATYA KINKAR SAHANA: Sir, I rise to oppose this motion. Sir this obnoxious drug—this weed from the Island of Tombago—introduced in civilised society by Sir Walter Raleigh, claims to be the greatest conqueror of the world. It has spread like wild fire everywhere. Of all the various forms of using tobacco that are prevalent, tobacco-chewing and tobacco used for snuff have done the greatest injury to humanity. Tobacco is used as *dokta*, *khaini*, *surti* and *jarda* for the purpose of chewing. It is also used in various forms as snuff, whether scented or not. By taking to tobacco-chewing, persons get dyspepsia, get dark aureolas round their eyes and also lose their general health. As regards snuff, Mr. Banerji has said that it is used by the *pandits*. It is for this reason Sir, that these *pandits* generally get their olfactory nerves deranged and cannot utter the nasal sounds. They cannot pronounce *ganja*, but pronounce it as *gagga*. I would like to suggest that tobacco used as snuff and for the purpose of chewing should be heavily taxed so that these habits may become extinct from our society.

Mr. NARENDRA KUMAR BASU: I am surprised to hear the remarks made by the great Rai Bahadur from Bankura. He thinks that this taxation is meant for preventing the habit of chewing tobacco or using it as snuff. Unfortunately, this is nothing of the sort. This is not an excise duty. This is only a license duty on persons who deal in tobacco which is intended for the purpose of chewing or for the use of snuff. As has been pointed out by the Hon'ble the Finance Member over and over again, this merely concerns the retail and wholesale dealers of such things. Therefore, the high pedestal from which the Rai Bahadur spoke is not only not-existent, but probably chimerical. But so far as the merits of the amendment are concerned, my submission is that the Hon'ble Member has told us often and often in this House that he does not want to touch the poor men, and chewing tobacco is confined, mainly, if not wholly, to the very poor people. Take the case of the soldier or sailor; he has his quid; take the case of *darwans* or the *chaprassi*, he has his *khaini*. Amongst other people, chewing tobacco is almost unknown except in the case of some females in our country. I, therefore, submit that by imposing a tax on this class of tobacco, you are really imposing a tax, however small the amount may be, on the very poorest of the poor, white, brown or black. Sir, this clause ought to be amended as proposed by my friend Mr. Banerji.

The Hon'ble Sir JOHN WOODHEAD: Sir, naturally I oppose the motion. Mr. Banerji's infallible remedy for pyorrhoea I have never heard of before. Mr. Banerji said, tobacco is a necessity. I believe, Sir, he does not smoke, yet I notice that he possesses sound health and

is particularly vigorous in certain directions of human activities. Si be that as it may, it is not necessary for me to enter into a discussio on this subject. I simply oppose the motion.

Mr. B. Banerji's motion being put, a division was taken with th following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Prombari.
Basu, Mr. Narendra Kumar.
Chandhari, Babu Rishori Mohan.
Chokhany, Rai Bahadur Ram Dev.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Mohammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Maulvi Tazimuddin.
Nag, Babu Suk Lal.
Poddar, Seth Hanuman Prosad.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Rout, Babu Nagendra.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Mohammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Saral Chandra.
Barma, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S.
Benjamin, Mr. G. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Cohen, Dr. J. D.
Cooper, Mr. G. G.
Das, Babu Surapresad.
Dutt, Mr. S. C.
Dutt, Rai Bahadur Dr. Haridhan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. D. M.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Hoque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Khan, Maulvi Abi Abdulla.
Maguire, Mr. L. T.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Bhiresndra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijay Prosad Singh.
Roy, Babu Haribansa.
Ray, Mr. Sahaswar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhury, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Steven, Mr. J. W. R.
Townsend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 20, and the Noes 50, the motion was lost.

Mr. DEPUTY PRESIDENT: Owing to the decision of the House, I think amendment No. 83 falls through automatically.

The motion that clause 2, as amended, stand part of the Bill, was then put and agreed to.

Clause 3.

Mr. DEPUTY PRESIDENT: I think amendments Nos. 84 and 87 are of an identical nature, and if there is no objection, I should like to take them together.

Maulvi SYED MAJID BAKSH: I think, Sir, they are identical. But I submit that the intentions of the movers are quite different.

Mr. DEPUTY PRESIDENT: In that case, they may be taken up separately.

Mr. P. BANERJI: Sir, I beg to move that clause 3 (*2*) be omitted. Under this clause the Local Government may by notification in the *Calcutta Gazette* alter, delete or add to all or any of the items in the Schedule, and any such alteration, deletion or addition shall take effect as if it had been made by this Act. Sir, this would give Government, as we say, a carte blanche. I fail to understand why the Government want to take this measure into their own hands. We at least from this side of the House fear to give Government such powers so that they, without coming to the Legislature, will be able to change the Act in the way they like. They have given in this Schedule so many items such as tobacco leaves or stalks, ball tobacco, cigarettes, *birts, cigars or cheroots* or any other kind of tobacco. Does it include, may I ask the Hon'ble Member, everything in tobacco? Even if it does not include the last item "any other kind of tobacco" it includes everything. Still, in spite of the Herculean task done by the Members of the Government in preparing this Bill and making extensive survey by the officer appointed for this purpose, Government does not like to exclude any such thing whatsoever. Perhaps they think that whenever they want they may do anything whatever they like. This I consider is an absurd proposition and we are not prepared to give Government this sort of carte blanche. If Government want to give up all the Parliamentary practices, the best thing would be to dissolve this Council and run the administration in the way they like it.

With these words I move my motion.

Mr. NARENDRA KUMAR BASU: I beg to support this amendment. It seems to me that this clause (*2*) of section 3 offends against the primary canons of legislation. If clause (*2*) is there I do not see any necessity either for clause 3 (*1*) or of the Second Schedule. By this clause the Government want to take the power, the widest possible power, to alter, delete or add to all or any of the items in the Schedule and any such alteration, deletion or addition shall take effect as if it had been made by this Act thus substituting Government by notification

for Government by legislation. The powers of the Legislative Council to prescribe the quantity, to prescribe the kind of thing to be taxed by this Act taken away and reserved in the hands of the executive. I submit it is something repugnant to the idea of the powers of the Legislative Council, and I hope that so far as the non-official members of this Council are concerned they will rally to a man against this provision.

Dr. NARESH CHANDRA SEN GUPTA: I support this amendment. As my friend Mr. Basu has said, though not in so many words, this is an illustration of bureaucratic legislation which is in fashion to-day. It is going further than most other similar measures. We are asked to vote blindfold with regard to the dummy Schedule which is not the Schedule that is going to be enforced. Government bring before us certain proposals and ask us to vote on these proposals. We are expected to exercise our judgment on those proposals. That is our proper function in the Legislative procedure. But Government bring together certain items and ask us to vote for them, but then they say: "This is a Schedule which we are not going to enforce. We may change it in any way we like." A taxation measure should not be made in this way. I know there are taxation measures in which a certain amount of discretion is given to the Government. I do not care for that sort of legislation. The Government will probably say: "In this case we do not know exactly where we stand. We would like to feel the way and have powers by which it would be possible to reduce the quantity or bring in other items so as to bring in the amount of tax that we want. We do not know the ground." The answer to that is that you should have gone and felt the ground before you came to the Legislature. A taxation proposal should be backed by definite data on which it proceeds, and it would be up to the Government to bring those data before the Legislature for sanction. If you don't do that but you ask for the vote of the Legislature, to be given blindfold, I say it is simply trifling with them.

Maulvi SYED MAJID BAKSH: As has been remarked already, this is one of the instances of utter irresponsibility to which Government of the present day is driving. Secure in their position in more respects than one they now want *ad hoc* power by which they want to empower themselves not to place such measures before the Legislative Council but by the issue of governmental notice enact for us in any way they please. On principle, therefore, this is a very obnoxious measure. In the first place we find that according to clause (*1*), subclause (3), this is a legislation which will be in force for only three years. If that is so, what great change will occur in the course of these three years that it will require a measure like this and for which Government should be armed beforehand with the widest possible

powers. I do not understand what Government means by this. Do they want that as they proceed with their taxation a time will come when they will want to reduce the taxation? If that is so, then they can rest assured if such a Bill is brought before the Council, it will have the wholehearted support of a majority. If it is meant that they want to proceed in a different way after having got this Bill passed in a more or less objectionable form and if they will by the simple issue of a notice increase the incidence of taxation and change the Schedule as they please, then of course it is trusting too much on their own self-confidence and expecting too much of us.

The Hon'ble Sir JOHN WOODHEAD: I must oppose this amendment. But may I now say that I am prepared to accept the next one, subject to a slight change in wording. The clause referred to gives Government power to change the items in the Schedule; it gives power both to increase the quantities as well as to decrease the quantities. If I accept the next amendment, Government will not have the power to decrease the quantities. It will be useful from the administrative point of view if we have the power to increase the quantities. And it should be remembered that an increase in the quantities will have the effect of decreasing the incidence of the taxation and not increasing it as Mr. Majid Baksh seems to suggest. Although the quantities given in the Schedule have been fixed after considerable investigation it may be found necessary to increase the quantity in regard to some particular item. I would much prefer to have the power to do so without having to wait for six months or even longer in order to obtain the approval of the Legislature. The only effect of being required to obtain the approval of the Legislature if Government desired to increase the "quantity," as prescribed in the Schedule, would be that some vendors would be required to pay a higher license fee than otherwise would be the case. I therefore oppose the amendment. But I wish it to be understood that I am prepared to accept the next amendment subject to a slight verbal change.

Mr. P. Banerji's motion being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Prambari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Khetri Mohan.
Chaudhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Hashem Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Rout, Babu Nanda.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Saral Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Muhammad.
Basu, Mr. S.
Benjamin, Mr. N. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Das, Babu Guruprosad.
Dutt, Mr. G. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. K. N.
Ghose, Rai Bahadur Saroshe Comar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Goho, Mr. F. R.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. P. T.
Khan, Maulvi Abi Abdulla.
Maguire, Mr. L. T.
Martin, Mr. O. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mitra, Babu Saral Chandra.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Shirendra Nath.
Mukhopadhaya, Rai Sahib Saral Chandra.
Nag, Rev. S. A.
Nag, Babu Suil Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Poddar, Mr. Ananda Mohan.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. G.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Satleswar Singh.
Roy, Mr. Saral Kumar.
Roy Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Rashiari.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 25 and the Noes 55, the motion was lost.

Dr. NARESH CHANDRA SEN GUPTA: Sir, with your permission, I propose to move this amendment with a verbal alteration. I move that in clause 3(2), line 3, after the words "in the Schedule" the following words be inserted, namely:—

"Except to reduce the quantities mentioned in the second column thereof."

Sir, the effect of this amendment would be that Government would not be able, by any change in the first column of the Schedule, to reduce the quantities mentioned in the second column: they could only increase it. That is the limitation on the part of the Government.

The Hon'ble Sir JOHN WOODHEAD: Sir, I accept the amendment.

Dr. Naresh Chandra Sen Gupta's motion was then put and agreed to.

Maulvi ABUL KASEM: Sir, I beg to move that after clause 3(3) the following be added, namely:—

"(4) Any retail dealer who sells to any person at any transaction or within forty-eight hours any quantity of any of the articles mentioned in the first column of the schedule which is not in excess of one-fifth

of the quantity mentioned in the corresponding item of the second column of the schedule shall be exempted from any tax as such retail dealer under this Act."

Sir, my object in moving this amendment is to exempt small retail dealers and save them not only from taxation but harassment by your officers.

The Hon'ble Sir JOHN WOODHEAD: Sir, I must oppose this amendment. What it amounts to is that any person who sells one-fifth of the quantity mentioned in the Schedule at any transaction or within 48 hours would be exempt from the tax. That would certainly mean a considerable loss in revenue. It would mean exemption of a very larger number of retail vendors.

Maulvi Abul Kasem's motion was then put and lost.

The motion that clause 3, as amended, stand part of the Bill was then put and agreed to.

Clause 4.

The Hon'ble Sir JOHN WOODHEAD: Sir, may I just interrupt at this stage? I am prepared to accept amendments Nos. 90, 91, and 92, but I wish to put them in proper form by redrafting the first proviso to clause 4. May I, with your permission, move a short-notice amendment to that effect? The amendment will read as follows:—

"That in clause 4, for the first proviso, the following be substituted, namely:—

'Provided that a person who, either himself or with the aid of members of his family or by labour paid in cash or in kind, grows tobacco, either on his own land or on the land of another in return for a share of the produce, may, without such a license, either himself or through a member of his family acting on his behalf, sell or for the purpose of sale, expose or keep, any tobacco so grown or any preparation or admixture thereof.'"

I believe that meets the views of the members concerned.

(Dr. Naresh Chandra Sen Gupta, Maulvi Tamizuddin Khan and Rai Sahib Panchanan Barma accepted the short-notice amendment.)

The motion was then put and agreed to.

Rai Sahib PANCHANAN BARMA: Sir, I beg to move that in clause 4, after the second proviso, the following *explanation* be added, namely:—

"*Explanation.*—In areas where tobacco is grown as a money-crop two or more persons who are themselves growers of tobacco, carrying on

buying and selling business in tobacco leaves, during the tobacco season, may be exempted under this proviso under prescribed conditions."

Sir, my object in moving this amendment is to permit the tobacco-growers to form into groups and do some business in tobacco. It will be found that at present several persons who are themselves growers of tobacco sell their products, join their money so obtained and carry on business in tobacco. It is a partnership business; or company business, now growing amongst the cultivators. But if every one of such a joint concern has to pay Rs. 6 license fee, then they will have to close their business. These people will not be able to bear the burden of such a tax and their embryonic partnership or company business will be nipped in the bud. Unless several persons join together, it is not possible for these poor cultivators to do any business. My object is to afford them some facilities in order to enable them to develop joint business capabilities amongst them. There are, of course, some persons who take their tobacco to *hâts* for selling, but there are others who would prefer to pile up their tobacco in their own house or in the house of their partners and sell it there, and in this way they do their small and as yet undeveloped partnership business. I ask the Government to note these facts and help the cultivators so to grow in business as to take their produce to distant parts of the country and sell it there at a gain. They do not generally go to *hâts* and take and sell their tobacco there, but they sell off their tobacco at their house, they make their purchase from their neighbourhood. It appears that they cannot do that if they do not form any company or firm. So I beg to submit that under these circumstances they may be permitted to do that. And they are prepared to concede so far as to pay some tax. But how to do that, that is my difficulty; they not forming a firm or a body of merchants. If you can solve that question, my difficulty also will be solved. With these words I offer my amendment.

Maulvi SYED MAJID BAKSH: Sir, I beg to support the motion of my friend for this reason that in respect of the cultivators if we make a rigid rule that only the person who either grows tobacco himself or grows it with the aid of hired labourers is to be exempted that would be very harsh upon the agricultural people, because we often find that persons in the villages do not grow the same article; some grow tobacco, whereas others grow other kinds of produce, and when the crop comes in a marketable form those who grow other kinds of commodities sell it to persons, small businessmen, who may be tobacco-growers themselves; and conversely, those who grow tobacco sell it to other small businessmen for the reason that they have not grown tobacco, but that they have grown other commodities. In this case it is difficult to make a distinction; so, in taxing tobacco in possession of persons who are not actual growers of tobacco, this is more or less a rigid rule; therefore, this rigidity of the rule should be relaxed and small businessmen

who are also cultivators in one way or the other and who might very well purchase tobacco from persons who have actually grown tobacco in order that they may sell it at the nearest market, should be exempt, because to tax them would be to introduce a degree of hardship which it seems to me they do not deserve.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I find a little difficulty in supporting this amendment as it is, because in the first place the form in which it has been moved is not acceptable. It purports to be an explanation to a clause of which, however, it is not an explanation, but really an exception to it. On the other hand, I find that in this Bill Government have retained no power to exempt anybody.

The Hon'ble Sir JOHN WOODHEAD: No, Sir, Government have retained that power and Dr. Sen Gupta will find it if he will refer to the proviso to clause 4.

Dr. NARESH CHANDRA SEN GUPTA: I stand corrected, Sir. There is a second proviso to clause 4 in which Government in a fit case can easily exempt such a person under the rules, but the amendment cannot be accepted in this form. It does not seek to protect the growers of tobacco in disposing of their own produces, but it seeks only to benefit the growers of tobacco who are on the way to become *mahajans*. I do not think that a general principle of this sort can be laid down, but the whole thing may be left to the discretion of Government so that Government may in a fit case exempt any person they think proper.

The Hon'ble Sir JOHN WOODHEAD: Sir, I must oppose the amendment. In the first place the wording of the amendment is far from satisfactory. The words "in areas where tobacco is grown as a money crop" are not suitable for use in a legislative enactment. In the second place I object to the amendment on principle. So far as persons who sell their own tobacco are concerned, they can sell it without any license whatsoever. But the proposition that persons who grow tobacco should be permitted during the indefinite period of the tobacco season to buy and sell tobacco other than their own produce, is opposed to the whole principle of the Bill. The principle of the Bill is that a cultivator should be exempted so far as tobacco grown by himself is concerned, and that everybody else shall sell tobacco on payment of a license fee. I am not quite certain—indeed I find it difficult to follow Rai Sahib Panchanan Barma—but I believe he mentioned something about persons joining together for the sale of tobacco, and enquired whether such a body of vendors would require as many licenses as there are persons. If four or five persons have a joint business for the sale of tobacco at one place, they will be a firm

or a body of persons trading as one person, and they will require only one license; for instance, two persons may hold a shop jointly, but it is not intended that they should take out two licenses. It is not intended that the retail and wholesale licenses should be strictly personal business; they will be licenses permitting sale at a particular shop. So, in the same way, four or five people dealing jointly in tobacco at one place, provided of course that their business is a genuine joint business and not merely a subterfuge to evade the law, they will be covered by one license. Of course, all I have said refers to the sale of tobacco other than tobacco grown by them; they can sell their own grown tobacco without a license. Sir, I oppose the amendment.

Rai Sahib Panchanan Barma's motion was then put and lost.

The motion that clause 4 stand part of the Bill was put and agreed to.

Clause 5.

Mr. DEPUTY PRESIDENT: Motions Nos. 95, 96, 97 and 98 are all identical; so I suggest that No. 98 be moved first and all these motions be discussed together.

Babu KHETTER MOHAN RAY: Sir, may I move my amendment in a revised form, with your permission? It runs thus:—

"That in clause 5(*1*) after the words 'prescribed fee,' the following words be inserted, namely, 'which shall not in any one financial year exceed six rupees for a license to sell wholesale, or three rupees for a license to sell retail'."

The substance is the same, Sir; only the revised wording is better than in my original amendment. I do not want to make any speech.

Mr. DEPUTY PRESIDENT: I think that Maulvi Tamizuddin Khan can also move his motions Nos. 203, 204 and 205 now as they seem to be relevant to this motion.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move my amendment in a slightly amended form with your permission, namely, that "after clause 5 the following be added as an explanation, 'fees payable in respect of a license held by a wholesale dealer, retail dealer and a hawker shall in no case exceed Rs. 6, Rs. 3 and Re. 1, respectively, in municipal areas and Rs. 4, Rs. 2, and annas 8, respectively, in the rural areas.'

I also beg to move that to clause 29(*2*)(*c*) the following proviso be added, namely:—

"Provided that the fees payable in respect of a license held by a wholesale dealer, a retail dealer and a hawker shall in no case exceed rupees four, rupees two and annas eight, respectively."

I also beg to move that to clause 29(2)(c) the following proviso be added, namely:—

"Provided that the fees payable in respect of a license held by a wholesale dealer, a retail dealer and a hawker shall in no case exceed rupees six, rupees three and rupee one, respectively."

I am moving them as alternative amendments. As regards No. 203 my object is that some difference should be made as regards the amount of tax which people dealing in tobacco in the towns should pay and what people in the rural areas should pay. We know that we have already lost one motion purporting to exempt the rural areas altogether from the operation of this measure. But, I think, Sir, some difference may perhaps be made as regards the amount of tax which the municipal areas and rural areas should pay under this Bill. My object is that in the rural areas we may assess the fee at a rate lower than that for the municipal areas, and this is quite clear from the motion which I have now just read out, namely, amendment No. 203. Motion No. 204, as I have already stated, is an alternative motion that seeks to diminish the amount of tax that is to be paid under this measure. In this amendment I propose that the wholesale dealers should pay Rs. 4 and the retail dealers Rs. 2, while the hawkers should pay only annas 8 and not more than that. As regards amendment No. 205, that also is an alternative amendment, and my proposal there is almost the same as that of the motion of Babu Khetter Mohan Ray with this difference that I have added the words "hawkers" in my motion; I have said that the license fee which the hawkers should pay should in no case exceed Re. 1. The object of my motions is quite clear from their very wording, and I do not like to dilate upon them. I move them and I think the House will accept one of them.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I rise to support the motion moved by my friend Babu Khetter Mohan Ray. In the Statement of Objects and Reasons of the Bill the Hon'ble Member has said that the license fee would be Rs. 6, but there is nothing embodied in the Bill. We think it is desirable that this should be put in a statutory form, so that this license fee cannot be increased or lowered according to the sweet will of Government. The people may know how much one has to pay in order to take the license. It is most desirable to put it in the Statute Book. I wholeheartedly support the motion.

Mr. NARENDRA KUMAR BASU: I beg to support this motion. Apart from the general question as to whether the fee or tax to be levied should be left to the executive and not fixed by this Council, which I submit and have always submitted and will continue to hold, to be a very vicious principle, I submit that this power should not

be left to Government to levy whatever amount they may think proper at any time. Sir, that the rates proposed by my friend, Maulvi Tamizuddin Khan, in his third amendment, viz., amendment No. 205, that the fees payable shall in no case exceed Rs. 6 for the wholesale dealer, Rs. 3 for the retail dealer, and Re. 1 for the hawker, are, in the circumstances, quite appropriate. They are indeed the figures which were given to us by the Hon'ble the Finance Member as tentative figures when the Bill was introduced, though I still hold that the amount which the hawker will have to pay will mostly be much in excess of the amount mentioned in the Bill when it is passed. I still hold the view that, in spite of the unwarranted and unnecessary heat of the Hon'ble the Finance Member last evening in repelling the suggestion, the underlings of the Excise Department and the underlings of the Police Department do make a little extra money out of the poor people. The unwonted and the unnecessary heat, I find on reflection, is due to the prickings of the conscience of the Hon'ble the Finance Member, because he pays these men so little that they have to prey upon society; and that is why he wanted to defend their conduct when they prey upon society, as they are very much likely to do. However, in spite of his protestations, I submit, Sir, that the sum which will really be payable by these hawkers will be very much above that mentioned in the Bill. Be that as it may, the amounts of Rs. 6, Rs. 3, and Re. 1 for the wholesale dealer, the retail dealer, and the hawker, respectively, are much too large for the rural areas. I think that the amounts should be fixed by this Council and not left to the Executive Government.

Maulvi SYED MAJID BAKSH: Mr. Deputy President, Sir, looking at the three amendments of Maulvi Tamizuddin Khan—I mean Nos. 203, 204, and 205—I find, Sir, that No. 203 is one with which I find myself more in agreement than with the rest. I agree, Sir, that there ought to be a distinction between the municipal areas and the rural areas. A municipal area being, more or less, a town, ensures a better sale than a rural area. Therefore, those who will take out the license will profit more in the municipal areas than in the rural areas. Therefore, Sir, I think that the distinction that is provided in this amendment is very appropriate. Sir, it is seldom that we come across hawkers in the rural areas, where we find shops in which tobacco is kept for sale, either wholesale or retail; and as I have said, hawkers are to be met with more in the municipal areas than in the rural areas. The *panwallahs*, either in the shops, or in the bazars, or in the railway stations are shopkeepers, viz., retail sellers or wholesale dealers. Therefore, they will come under the provisions of this Bill. But I do not think that a hawker in rural areas ought to be taxed. These poor persons in the rural areas might

find great difficulty in making a profit of even Rs. 6 a year, and to deduct even a small amount from their little profit, would be to lay a heavy hand upon their income. These poor people take to the business of hawking in order to provide for their own maintenance and also of their families, and to take away from these poor hawkers the means of their livelihood is rather unjust, I should think. Sir, so far as the persons who keep tobacco in their shops for sale are concerned, they are more or less capitalists and they can afford to pay the license fee. But so far as the hawkers are concerned, they are not at all capitalists and they live from hand to mouth. They sell tobacco which they get on credit and after hawking make a profit of a few pice or a few annas and return the unsold goods to the shopkeeper. To lay hands upon these poor people for a fee of a few annas which they collect as they profit is rather unjust. I, therefore, support one of these amendments, viz., No. 203, and think that even 8 annas would be more intolerable for them than Re. 1.

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, with regard to these three amendments, there is some confusion which I would like the Hon'ble the Finance Member to clear up. All these three amendments seek to fix the license fees of the various people under the Act. In the Statement of Objects and Reasons attached to the Bill the rates of license fees of the different classes of people were given, viz., that the wholesale dealer will have to pay Rs 6 per annum, the retail dealer Rs. 3, and the hawker Re. 1. But we do not find anywhere in the Act any provision laying down the license fees of these dealers. These amendments seek that this should be done by the Act. Now, the difference between these three amendments is that our friend, Babu Khetter Mohan Ray, only wants to lay down the fees to be paid by the wholesale dealer and the retail dealer; while amendment No. 205, also, includes hawkers in accordance with what was given with the Statement of Objects and Reasons. There is no difficulty as regards the wholesale dealer and the retail dealer: our difficulty is with regard to the hawker. As has been stated by the Hon'ble Member in charge, "hawker" is not defined anywhere. It will, probably, lead to complications. The hawkers are a class of persons for whom it is very difficult to take out any license at all. For instance, the ordinary practice in *hâts* and bazars is that these people get some articles from the shopkeepers on credit and hawk them in the bazar on *hât* days and make a little profit therefrom. The hawkers who sell *biris* and *pan* are not also permanent men. They take their goods from the permanent shops and pay the shopkeepers the price for the articles sold and return the unsold

goods to the shopkeepers, keeping whatever profit they can get by hawking. It will be a great hardship to them if they are required to take out a license. Then we, also, know that whenever there is a big gathering on a festive occasion, such as at *jatra*, there are *pan* boys who hawk about *pan* and *biris*. No exception has been made in the case of such people, and these boys will, under the law, be required to take out a license of Re. 1 or whatever the rate might be. I think, Sir, that it will be desirable to make some provision in the Bill for fixing the rate of hawkers at a much lower level, or exempt these temporary or casual hawkers altogether.

Sir, as regards the two other amendments; I have no objection to support No. 205. The other amendment, viz., No. 204, gives different rates which, perhaps, will not be suitable and may lead to complications.

The Hon'ble Sir JOHN WOODHEAD: Sir, I must oppose amendments Nos. 203 and 204 as they seek to prescribe lower rates than it is Government's intention to impose. Number 203 prescribes that the fees payable in municipal areas shall in no case exceed Rs. 6, Rs. 3, and Re. 1, respectively, and in rural areas Rs. 4, Rs. 2 and annas 8, respectively; while No. 204 seeks to prescribe a rate of Rs. 4, Rs. 2 and annas 8, respectively, for the whole province. I am, however, prepared to accept the amendment of Babu Khetter Mohan Ray in a rather modified form. The difficulty from the point of view of Khan Bahadur Abdul Momin and also of Maulvi Tamizuddin Khan is that this amendment does not prescribe that the maximum fee for a hawker's license shall be Re. 1. My difficulty in regard to that is that the word "hawker" has not been defined in the Bill. We did not include a definition in the Bill, because we proposed to fix the fees by rules. I find it impossible, therefore, to agree to the inclusion of the fee for a hawker's license in the Act, my reason being that the word "hawker" is not defined in the Act. I am, however, prepared to make this promise, that during the lifetime of this Act the maximum fee payable by a hawker shall be Re. 1. A hawker, as I understand the word, is a person who goes from place to place or from house to house selling tobacco; it does not include a person who sells tobacco from a stall in a market. There are many details in connection with the licenses which cannot be settled by provisions in the Act; these details must be settled by rule and experience may require the rules to be changed from time to time. Our idea is to make the hawker's license transferable. A hawker's license will not be issued to (say) Abdul Karim. It will be a license which entitles any one to sell as a hawker so long as he is in possession of the license; anybody who may be in possession of that license for the time being will be able to sell tobacco as a hawker. Take

the case of hawkers at railway stations. They are the employees of the men who hold the shops at the railway stations. Such a shopkeeper will not be required to take out a fresh license every time he changes the person he employs as a hawker. What he will be required to do is to take out such a number of licenses as will enable his "hawkers" to have in their possession, while actually engaged in hawking, a license. As regards a "shop" license our idea is that it should be transferable to a new shop site in case the licensee changes the site of his shop. A man who will be in possession of a hawker's license will be able to sell tobacco anywhere as a hawker. I hope on the definite promise that the hawker's license fee shall not exceed Re. 1 the movers of other amendments will withdraw them; I accept the amendment moved by Babu Khetter Mohan Ray. If the other amendments are not withdrawn, I must oppose them.

Maulvi TAMIZUDDIN KHAN: May I ask one question to the Hon'ble Member? What about the casual hawker to whom the Khan Bahadur Abdul Momin referred? Whether the casual hawker at a *jatra* party and other places of amusement would be exempted?

The Hon'ble Sir JOHN WOODHEAD: I do not know what a casual hawker is. As far as our enquiry in the mufassal goes, there are a very few hawkers. A man may have a permanent shop, and what he may do is to employ people to go round to the different markets on days on which they sit. That sort of man I should not consider to be a hawker. In the mufassal, so far as I am aware, there are no hawkers except at railway stations. Hawkers are generally found in towns such as the persons who are found sitting on the footpath in Calcutta. We look upon them as hawkers, although they do not necessarily go from place to place.

Mr. SHANTI SHEKHARESWAR RAY: Are Government going to issue two kinds of licenses—one for persons who sell themselves and another for persons who sell on behalf of another person?

The Hon'ble Sir JOHN WOODHEAD: No, Sir. A license for retail vend will be a license for a shop and anybody who works in that shop will be able to sell tobacco from that shop under that license.

Mr. SHANTI SHEKHARESWAR RAY: What will happen if Mr. Banerji owns a hundred shops? Will he have to take out hundred licenses?

The Hon'ble Sir JOHN WOODHEAD: Yes.

Maulvi TAMIZUDDIN KHAN: I beg leave of the House to withdraw my motions (Nos. 203, 204 and 205).

The motions were then, by leave of the House, withdrawn.

Motion No. 98 moved by Babu Khetter Mohan Ray was then put and agreed to.

The motion that clause 5, as amended, stand part of the Bill, was put and agreed to.

Clauses 6 to 9.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that for clauses 6 to 9 the following clauses be substituted, namely:—

"6. *(1)* Whoever sells or for the purpose of sale exposes or keeps tobacco in contravention of section 4 shall be liable to pay, on demand by an excise officer authorised in this behalf by any general or special order of an excise officer not below the rank of an Inspector of Excise in charge of a district, a penalty hereinafter in this section mentioned, in addition to the prescribed license fee payable by him if he has not taken out a license already.

(2) The penalty referred to in sub-section *(1)* shall be,—

(a) where the person does not hold a license granted under section 5, a sum equal to twice the amount of the license fee payable by him under the rules;

(b) where he holds a license under section 5 but has acted in contravention of the terms of the license, a sum equal to the amount of the license fee payable by him.

(3) If such person fails or refuses to pay the amount payable by him under this section on demand by an Excise Officer authorised as hereinbefore provided, the sum payable by him shall, on application made to any Magistrate by any Excise Officer authorised in this behalf, be recovered by a Magistrate from him as if it were a fine imposed by the Magistrate on the person charged with the same.

7. *(1)* If any person fails or refuses to pay the amount demanded from him under section 6, and there is reason to believe that he would abscond, or his name and address are unknown, or he refuses, on demand, to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any Excise Officer authorised to demand such payment, or any police officer or other person that such Excise Officer may call to his aid may, without warrant or other authority, arrest him.

(*2*) The person arrested shall be released on his giving bail, or if his true name and address are ascertained, on his giving a bond without sureties for appearance before a Magistrate when required.

(*3*) If the person arrested cannot give bail, or his true name and address cannot be ascertained, he shall, without the least possible delay, be taken before the nearest Magistrate having jurisdiction."

I beg to invite the earnest attention of the members of this Council to the proposal which I am going to move. It is a matter of very great fundamental importance. The proposals which are embodied in the Bill are known to the members. Under this clause of the Bill the person who sells tobacco without a license and a person who sells tobacco under a license but in contravention of the terms of the license is liable to pay a fine of Rs. 100, and is liable to be arrested, and a person who is suspected of selling tobacco is liable to have a search warrant issued against him, to have his business quarters and house searched and to be marched not straight to the court but to offices of excise officers, and there are a large number of minor harassments to which he may be put. Not only the man who actually sells tobacco without a license but also the man who is suspected to have sold tobacco without a license. All this is provided in order to compel a person to take out a license at a cost of Rs. 6 or Rs. 3 or Re. 1. It is like the Bengalee adage, "Pointing of a canon to kill a gnat." It is perhaps worse than that. All the paraphernalia of the harassing provisions of the Criminal Procedure Code devised for the investigation of non-cognizable offences, that it to say, offences of a serious kind, have been brought into this Bill for the purpose of dealing with the trifling offence of avoiding the payment of Rs. 3. The Hon'ble Member has often told us that it is not the purpose to harass people. All that Government want to do is to realise Rs. 6 or Rs. 3 as license fee from persons who are selling tobacco. He has assured us that what the excise officer will do would be to go round and find out a person selling tobacco without a license and call upon him to pay the license fee, and there the matter will end. If that is the object, all these elaborate provisions borrowed from the Excise Act, which are of a very different character, are absolutely useless and unnecessarily harassing. If as Sir John Woodhead assured us that his object is to send out men with license forms and to realise the money from them, the procedure which I have provided in this amendment is one which he should welcome. It might be said, apprehended, by some that this sort of thing is without a precedent. It was suggested by some official members, but I may assure you, Sir, that these provisions are copied *mutatis mutandis* from the Indian Railways Act which provides for exactly a similar procedure for the realisation of fares from persons travelling without paying fares. If my amendment is carried, I will have to move other consequential amendments for the

deletion of other clauses. Clause 6 (*1*) says, "whoever sells or for the purpose of sale, exposes or keeps tobacco in contravention of section 4 shall be liable to pay on demand a penalty, etc." I beg to explain that it includes both sale of tobacco without a license and sale of tobacco in contravention of a license. I pause for one moment to explain what it means. It means that when a person is found to be selling tobacco without a license or in contravention of a license, any excise officer may come to him and call upon him to pay the license fee and also the penalty, and he will be bound to pay. The penalty referred to in sub-clause (*1*) shall be twice the amount of the license fee payable by him under the rules. That is to say, he will have to pay in addition to the license fee twice the amount of the license fee as penalty, and where he holds a license but has acted in contravention of the terms of license, a sum equal to the amount of the license fee payable by him.

Then the next provision is clause 3. It runs as follows:—

"If such person fails or refuses to pay the amount payable by him under this section on demand, etc., the sum payable by him shall on application made to any Magistrate by any excise officer, etc., be recovered by a Magistrate as if it were a fine imposed by the Magistrate on the person charged with the same."

I ask the Hon'ble Member to think of the persons travelling by a railway without tickets being called upon by the ticket examiner to pay the fare *plus* the penalty. The language is taken from the Railway Act. What follows then is this, that when an excise officer goes to a person and asks for money, it would be optional for the person to pay the money or to challenge his liability to pay. In that case he would be taken to a Magistrate and the Magistrate may realise the amount payable by him; that is to say, the amount which the Magistrate finds it to be payable by him. When he is taken to a Magistrate, it is open to him to say that he is not liable to pay this penalty and if the Magistrate finds that he is not liable to pay the penalty because he has not acted in contravention of the license, he goes scot-free. If on the other hand, the Magistrate thinks that he is liable, the Magistrate will realise it as a fine. That is the procedure laid down in the Criminal Procedure Code for realisation of fines. Clause 7 (*1*) runs as follows:—

"If any person fails or refuses to pay the amount demanded from him under section 6, and there is reason to believe that he would abscond, etc."

This again is taken *verbatim* from the Railway Act. The railway officials have got the power to arrest without warrant under similar

circumstances, and they have the right to call upon a police officer or any other officer to help them in making the arrest. Then, I have suggested the following:—

"(2) The person arrested shall be released on his giving bail, or if his true name and address are ascertained, on his giving a bond without sureties for appearance before a Magistrate when required.

(3) If the person arrested cannot give bail, or his true name and address cannot be ascertained, he shall, without the least possible delay, be taken before the nearest Magistrate having jurisdiction."

What would follow if this procedure is adopted? It comes to the knowledge of an excise officer either upon his own personal information or upon information received from his subordinates or even informers that a person is selling tobacco without a license or in contravention of a license. When he comes to the spot, if he finds him selling tobacco without a license, he will say, "Pay the license fee: I am authorised to give you the receipt for the license fee." When the man makes payment, there is no further trouble and there is no question of arresting him and taking him before the nearest Magistrate or the police officer for his remand or taking him from place to place as all these things are provided in this Bill. If, on the other hand, he challenges his liability and says that he is not liable or if the man is known to the excise officer, the excise officer comes before the Magistrate and the Magistrate decides the question of liability and compels him to pay the penalty as a fine. If, however, he goes to the Magistrate and satisfies him that he is not selling without a license, he gets out scot-free. If he is liable, the Government without trouble realises the penalty as a tax, and I suppose Government cares more for the realisation of the tax than the penalty. The tax will be realised in this way. If it does not come within the knowledge of the excise officer, then the most elaborate penal provisions of the present Act or any drastic provisions which may be devised by the Government would enable him to realise it. It is like the famous recipe of cooking a rabbit. We have got to catch him. If you have got him, your procedure is to realise the money and nothing else. If you cannot catch him, your procedure in the Bill does not enable you to realise the money. But the money of the Government will be secure, if you accept my amendment. On the other hand, if a person disputes his liability, he would have the opportunity of having a decision by the Magistrate before whom he would be enabled to show that he is not liable without being harassed. Is there any reason why Government should not accept this proposal? The only reason that has been suggested is that with regard to taxation proposals such things have not been known. But with regard to license fee proposals such a thing is the only thing that is known.

Take the case of a license fee for trade in municipalities. How do the municipalities realise their license fees from the trades and professions? The municipality goes and claims the money. If it is not paid, a distress warrant is issued and there is provision for punishment by a Magistrate. It is just the same as I am proposing. The only analogy of this liability to pay Rs. 3 or Rs. 6 is to be found either in the railway or in these professional licenses. Instead of taking it from the Excise Act, why don't you copy that? In the Excise Act the amount of license fee is not fixed. It depends upon the quantity of the articles sold. It involves a large amount of tax. Here the amount of the tax is fixed; it is either Rs. 3 or Rs. 6 a year. Then why bring in all that elaborate machinery of the excise law for the purpose of realising this small fee? I have tried to understand to the best of my ability the objections of the Government, and I suppose the Hon'ble Sir John Woodhead feels in his heart of hearts that this procedure would be of great help in the administration of this Act. But his advisers of the Excise Department to whom all these things are unfamiliar and who are only familiar with the penal provisions and the harassing procedure of the Excise Act—to them it is unintelligible, and they would not agree. I quite understand that feeling: Children in unfamiliar places feel afraid. But I ask the Hon'ble Finance Member to throw prejudice aside, to look at the question straight in the face, to look at the trivial things that they want to do and to look at the elaborate engine of oppression that they are forging for the purpose of achieving their small object. I want an answer from him whether this procedure that is suggested will place the slightest difficulty in the way of the Government to realise this tax. It has been suggested that these rules about railway fares are often evaded, and therefore these excise license fees may often be evaded. I am afraid the analogy does not hold good. In a railway a person travelling a long distance without a ticket can drop out and evade the eyes of a small body of railway officials who look after the passengers who travel without a ticket. But when a man sells tobacco in a shop or hawks it about or sits in a village, he has not got the same opportunity of escaping the vigilance of the people. Therefore, there is no question of evasion, especially when you have made it the duty of the union boards and the police to inform the excise authorities the moment they come to know of it. Therefore, that argument does not hold good. As a matter of fact, in the railways there has been considerable improvement in recent times in the matter of the realisation of penalties from persons travelling without tickets. I am sure that if the Hon'ble Finance Member is sincere in his profession and if the persons who are advising him are sincere in their assurance that they want nothing more than to realise the revenue, they will welcome this proposal instead of opposing it. If, on the other hand, they oppose it, the only possible inference would

be that there is something at the back of the minds of those who are advising the Hon'ble Finance Member which would not bear the light of the day.

Mr. SHANTI SHEKHARESWAR RAY: Sir, personally I am opposed to clauses 6 and 7 of the Bill. I would like these two clauses to be omitted altogether. If this is not possible, I would naturally support the amendment of my friend, Dr. Naresh Chandra Sen Gupta, as a lesser evil. Sir, the more we hear about the Bill, the more we come to detest it. Originally, it was given out that it was a mere measure for raising taxation. It was given out that the only reason for bringing forward this measure was to raise some money and to justify the Government of Bengal and the people of Bengal before the Government of India. That was the attitude of the Government of Bengal. But as we proceed with the Bill, we find that it is not exactly so. To my mind it appears to be another attempt on the part of the Government of Bengal to create certain channels, agencies of influence over the people in this province. This measure of taxation is accompanied with proposals which cannot be supported as an effort towards raising taxes. First of all, it is proposed to hand over the control of the taxes to the Excise Department, a department which is perhaps unpopular as much as the Police Department in Bengal. Sir, we know the position of an excise license-holder. By this measure Government propose to create similar creatures all over the province, creatures who will be at their beck and call always, and I am inclined to think that the issue of these licenses will be limited to persons who always cater to the local officials. Sir, I would draw your attention to the significant fact that these licenses are not to be issued to anyone who applies for them. Here Governemnt have taken the discretion to issue a license or not to issue a license. The Hon'ble Member in charge of the Bill has very innocently pointed out that there would be no difficulty. A man has only to pay down Rs. 3 or Rs. 6 and all his troubles will be over. It is not so, Sir. In clause 5 it is stated that the prescribed authority may—it is not shall—and there is a discretion given there and there is a danger of this discretion being misused. Naturally, people with self-respect, people with an independent turn of mind——

Mr. DEPUTY PRESIDENT: Please come to clause 6.

Mr. SHANTI SHEKHARESWAR RAY: I am coming to that, Sir. Naturally people with an independent turn of mind will fight shy of approaching Government for a license and as a matter of fact people connected with the progressive institutions in this country, for instance, the Congress movement, will be denied the privilege of possessing a license. The criterion will not be whether a man is able to pay 4 annas

or 8 annas but whether, as in the case of a license for excise shops or in the case of a man who is going in for a gun license, that man is fit according to the opinion of the local authorities for holding a license and being allowed the privilege of selling tobacco in a shop. The natural result would be that among your sellers of tobacco you will only have those persons who are with Government and are not in any way connected with the national movements in this country. That being the position, these clauses which impose a fine to the extent of Rs. 100 will be a very handy weapon in the hands of Government or of the local authorities to inflict punishment for these petty offences, things which are not at all offences in any other part of the world. Well, Sir, a friend of mine asks: Are tobacco sellers Congressmen? But, Sir, it is not only a question of tobacco sellers being Congressmen: As the Bill stands, petty shopkeepers will come under the clutches of the Government because, if a man sells *pan*, he may also sell *gundi* along with it to his customers, and naturally the Government with a view to raise more money as well as for other considerations which I have already hinted, will be inclined to ask the petty shop-owners, these *pan* sellers, these petty shopkeepers, to get a license and, perhaps when they are in a vindictive mood, to refuse a license. Among these petty shopkeepers there may be men with an independent turn of mind. What you are going to do is this: You are going to drive away men with an independent turn of mind, men who have self-respect, men who are, perhaps, 4-anna members of the Indian National Congress, from trading as betel shopkeepers and, Sir, it is not a danger to be laughed at, as some of my friends are doing.

Mr. DEPUTY PRESIDENT: Please come back to the subject under discussion.

Mr. SHANTI SHEKHARESWAR RAY: I am coming back, Sir. My main reasons against this penal clause are that it is not intended as a measure for raising taxation, but to demoralise a lakh of petty shopkeepers and *panwallas* and make them subservient tools in the hands of a Government that is not based on popular will. It is from that point of view that I raise my note of protest against these penal clauses, and the Hon'ble Sir John Woodhead has not been able to put forward any jurisdiction in support of such vindictive punishment, for the mere fact of not possessing a license. Sir, licenses are taken out by carters under the municipalities and if a person fails to take a carter's license, is he punished Rs. 100? In that case, why should a man be fined in this case? So, if the real intention of Government is to raise only a little amount of money, then this is sufficient to justify them before the Bar of the Legislative Assembly and the Government of India and they should be content with imposing this tax and not provide for such punishment

in this connection. Sir, the question of evasion naturally arises, and I think there is clause 8, and that should be sufficient for the purpose of meeting the necessities of the situation.

Mr. DEPUTY PRESIDENT: Dr. Sen Gupta omits clause 8.

Mr. SHANTI SHEKHARESWAR RAY: But I am not supporting Dr. Sen Gupta's amendment wholeheartedly, but only as a lesser evil. My main position is that clauses 7 and 8 should be omitted altogether.

Mr. DEPUTY PRESIDENT: You can come to clauses 7 and 8 later on. We are now discussing Dr. Sen Gupta's amendment on clause 6. You will have an opportunity of discussing 7 and 8 afterwards, so it will be better if you restricted yourself to Dr. Sen Gupta's amendment and gave your argument in support of it or against it.

Mr. SHANTI SHEKHARESWAR RAY: All right, Sir. I have finished.

Mr. NARENDRA KUMAR BASU: Sir, as far I understand amendment No. 99, it wants to substitute two small clauses for the existing clauses 6, 7, 8 and 9. Now, Sir, what are the existing clauses 6, 7, 8 and 9? I shall only content myself with dealing with the marginal noting on these clauses. Anybody who sells tobacco or anyone who produces and buys tobacco without taking, if a wholesaler, a license for Rs. 6 and if a retailer, a license for Rs 3, and if an "undescribed" hawker Re. 1, shall be punished with a fine which may extend to Rs. 100 That is the first provision. The second provision is that, whoever, being the holder of a license under this Act commits a breach of any of the conditions subject to which the license was granted shall be punished with fine which may extend to Rs. 100. Sir, speaking for myself I fail to understand how clause 7 can at all be brought into play in any case. This is, as I understand, a tax for license to sell tobacco, and I do not understand that it has anything to do with the locality where the sale is held. If a person holds a license for selling tobacco retail in Calcutta, I do not think the intention of the Legislature is that the license shall allow him to sell tobacco only in a particular locality, that is to say, it is not a local tax as municipal licenses are.

Then, again, the penalty for that is said to be Rs. 100. Then clause 8 is a very curious clause in that, if any person is reasonably suspected of committing an offence punishable under this Act he may compound the offence by the payment of a sum of not more than Rs. 100. That again, is rather extraordinary. A man commits an offence by selling tobacco without taking out a license, and that is the only offence possible

under this Act. He sells tobacco as a hawker without taking out a license by paying Re. 1, and he is liable to punishment in a court, and this Legislative Council gravely assumes that for the purpose of avoiding the incidental harassment and other necessary concomitants on such a prosecution or persecution of a hawker who has been called upon to pay Re. 1, Government will make Rs. 100 by compounding that offence: that is, Sir, clause 8. Clause 9 is that, for a breach of the provisions of this Act due to failure to take out a license, the District Magistrate or the Collector or the Excise Commissioner or some excise officer may issue a search warrant. Sir, for the life of me I cannot understand what a search warrant has got to do with a case of this description. This is the first time, Sir, that in the history of the Legislature in this world or in the history of licensing tax in this world, that non-payment of a license tax has been made an offence, and I do not think there is any law anywhere which says that if you do not pay this licensing tax you will be subject to a search warrant. Sir, I am not at all familiar with the Bombay Act which is the Bible, the Vedas, the *Zend A Vesta*, the *Quoran* all combined to the Hon'ble Finance Member and the Government of Bengal so far as this Bill is concerned. They seem to think that nothing has exceeded the wisdom of the Bombay Legislature in their provisions regarding this taxation proposal. I do not know whether it is in the Bombay Act, but I submit that where the marginal annotation says "compare Bengal Act V of 1909, section 69" Government does make, what I may say, is a mistake. I may say, Sir, that Bengal Act V of 1909 has got nothing to do with a licensing tax of this description. Therefore, I submit, that it is necessary that something should be substituted in place of clauses 6, 7, 8 and 9 and something which should be sufficient to get the tax for the Bengal Government, something which should not be opprobrious and something which should not be oppressive. Firstly, to think of other similar amendments: Look at the Bengal Municipal Act, the Calcutta Municipal Act, the Railways Act: I submit, Sir, there is no provision anywhere in any of those Acts which says that if you fail to pay Rs. 4 or Rs. 6, the maximum tax under this Bill for your license if you fail to pay your railway fare of Rs. 6, or your steamer fare of Rs. 6 you make yourself liable to pay a fine of Rs. 100, 16½ times that of the original fare. That itself, Sir, takes us back to the earlier days of legislative enactments. Sir, the purpose of this Act is to get some money as license-tax; and if the payment of this license-tax is evaded, the primary object of the tribunal, before whom the vendor will be brought forward, ought to be to realize the amount of the tax and, probably, something extra for the costs. But for the evasion of the license-tax of Re. 1, or of Rs. 3, or of Rs. 6, which is the maximum, to provide a penalty of Rs. 100, *plus* the search warrant, *plus* the prospect of a composition by the payment of Rs. 100, is, I submit, absolutely unwarranted and unnecessary.

Sir, let us now see what is the alternative proposed by Dr. Sen Gupta in this amendment. He says—I am summarizing this amendment that whoever evades the provisions of this Bill, so far as the taking out of a license is concerned, shall be liable to pay a penalty, in addition to the prescribed license fee; and the penalty shall be, where the person does not hold a license a sum equal to twice the amount of the license fee. That I submit, is a sufficient penalty for the evasion of the law.

Then Dr. Sen Gupta says: "Where he hold a license under section 5 but has acted in contravention of the terms of the license, a sum equal to the amount of the license fee payable by him." This, I take it, proceeds from the same inability of Dr. Sen Gupta about which I have just spoken. Speaking for myself, I cannot conceive of any condition in a license which may be contravened. You are not giving a man a conditional license. The license is either to sell tobacco, wholesale or retail, or to hawk it about. If a man has taken out a license as a hawker and retails it, then he is not breaking one of the conditions. He is simply doing what he has got no license for. Similarly, it is difficult to conceive what sort of condition is adumbrated by this provision. Probably, what is at the back of the mind of Government is that these licenses will be *local*, as I have said; that is to say, they will be confined to a certain locality, that is to say, for the purposes of licenses each licensing authority shall have a certain definite area for which and within which his licensees will be able to sell tobacco. But I take it that the meaning of the Bill is that a man, who takes out a license under its provisions, will be able to sell or hawk tobacco within the ambit of the province of Bengal. Therefore, I say it is very difficult to understand what the conditions of the license might be; and I am afraid my friend, Dr. Sen Gupta, was labouring under that difficulty also when he put down his clause (*b*).

Then, Sir, his next clause is that if this money is not paid at once, it may be realized as if it were a fine imposed by a crimnal court. If any person fails or refuses to pay the amount demanded from him under section 6 and there is reason to believe that he would abscond, or his name and address are unknown, or he refuses, on demand, to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any excise officer, authorized to demand such payment, may without warrant arrest him.

These are the provisions, Sir, which occur, I understand and as far as I remember, both in the Railways Act as also in the Excise Act. It is idle to say that a man who has not paid Re. 1 for hawking out tobacco—a man who is perfectly well known in a village and perfectly well known to the excise officers—is to be arrested forthwith and marched off, say, 30 miles to the nearest subdivisional town, so that he might be produced before a Magistrate on the next day. It may be

that he is unable to pay the amount then and there. You know his name and address: Why should you not be satisfied with realising the license fee and the penalty? This is an eminently reasonable proposal of Dr. Sen Gupta, which ought to commend itself to the House.

Further, there is a provision in Dr. Sen Gupta's amendment that if the person arrested cannot give bail, he shall be released on giving a bond, or if his true name and address cannot be ascertained, he shall, without the least possible delay, be taken to the nearest Magistrate having jurisdiction. As I have already said, Sir, these provisions seem to be eminently reasonable and are fraught with immense good and are so framed as to avoid needless harassment of the poorest section of the licenses under this Bill, viz., the hawkers. In their interest, I submit, Sir, it will be monstrous to march them off to the nearest Magistrate and to have their houses searched, if they fail to pay the sum of Re. 1 only, which is payable as their license fee for the whole year. I submit, Sir, that it would be adding to their penalty by depriving them of their livelihood and depriving the members of their familes of their support. I think, Sir, that the amendment moved by Dr. Sen Gupta is an eminently reasonable one, and I hope Government will accept it.

The Hon'ble Sir BROJENDRA LAL MITTER: Sir, I was surprised when I read the amendment and was still more surprised to hear the speeches in support of it. Sir, so far as the mover of the amendment and the Government are concerned, there is a good deal of common ground. We are agreed that if we are to pass this measure, it must be made effective; that is to say, machinery must be provided for the realization of the license fees. We are also agreed that the penalty will be in the nature of a fine. We are further agreed that in certain circumstances the offender may be arrested. On all these points we are on common ground. Then, the whole question is: "Which is more oppressive and which is less oppressive?" (Mr. NARENDRA KUMAR BASU: "What about the amount of penalty?") I say that the provisions of the Bill are a great deal less harassing—I am using the expression my friends have used—than those of the amendment. I am surprised that my friend, Mr. Narendra Kumar Basu, did not notice this fact. I shall, however, apply two tests. First of all, let us see what is the provision relating to the imposition of the fine. It is common both to the Bill and the amendment. In certain circumstances a fine has to be imposed. Under the Bill it is provided that a Magistrate should impose this fine: under the amendment it is the excise officer who imposes the fine. Which is preferable and which is less harassing—a judicial officer or an excise officer imposing a fine? (Maulvi SYED MAJID BAKSH: "Why not make it that the Magistrate should impose the fine on the application of the excise officer?") Wait, I shall go into that question.

Sir, in the Bill, clause 6 says that whoever sells, except under a license, shall be punished with fine which may extend to one hundred rupees. The words "may extend to one hundred rupees" have been interpreted as if in every case the fine must be Rs. 100; that is not so. It may be 2 annas, it may be a rupee—the maximum is Rs. 100. Now, Sir, in clause 6 of the Bill it is provided that the man who does not take out a license shall be punished and the penalty is only provided. An offence is created. Then, in clause 19 of the Bill, it is provided that no Magistrate other than—

(*a*) a Presidency Magistrate, or

(*b*) a Magistrate whose powers are not less than those of a Magistrate of the second class, or

(*c*) a Magistrate of the third class specially empowered by the District Magistrate in this behalf,

shall try any offence under this Act.

Therefore, under the Bill, a man who sells without a license has to be prosecuted and he will be tried, and, if convicted, the fine will be imposed by a Magistrate. What is the amendment, Sir? It is this: "Whoever sells, or for the purpose of sale, exposes or keeps tobacco in contravention of section 4 shall be liable to pay, on demand by an excise officer authorized in his behalf....." Here, under the amendment directly an excise officer makes the demand the liability becomes enforceable, and then what happens? We find: ".....a penalty hereinafter in this section mentioned, in addition to the prescribed license fee payable by him if he has not taken out a license already." Then we find, again, in sub-clause (3): "If such person fails or refuses to pay the amount payable by him..... ..." Therefore, before a man is brought before a Magistrate his liability has been ascertained. Ascertained by whom? By the excise officer. An excise officer makes the demand and immediately thereupon the man is liable to be punished; then he is taken to Magistrate—"If such person fails or refuses to pay the amount payable by him under this section on demand by an excise officer authorized as hereinbefore provided, the sum payable by him shall, on application made to any Magistrate by any excise officer authorized in this behalf, be recovered by a Magistrate....." Therefore, the function of the Magistrate is merely that of an executing court; he is merely recovering the fine; but the imposition had already been made. The Magistrate himself does not impose any fine; he merely recovers it. Then, Sir, the amendment goes on to say: ".....as if it were a fine imposed by the Magistrate....." That shows, if any doubt existed, that the fine had not been imposed by the Magistrate. The penalty is specified in the Bill; it is enforceable immediately an excise officer makes a demand and the Magistrate's function is merely to recover it. What I say, Sir, is this: Under the amendment no judicial mind

interposes before the imposition of the fine. My lawyer friends are never tired of pressing on Government both in this House and outside, that there is nothing like judicial adjudication of people's rights. We have provided in the Bill for judicial adjudication. The amendment does away with judicial adjudication and makes the Magistrate a mere collecting authority. That is test No. 1.

Now see test No. 2, that is arrest. Under the Bill in certain circumstances a person may be arrested only if he sells without a license. That is the only ground on which a person may be arrested; under the amendment he may be arrested not only on the ground that he is selling without a license but also on the ground that he has broken a condition of the license. I wish to point the additional ground out. How this escaped Mr. Narendra Kumar Basu passes my comprehension. In the Bill clause 12 says this:—

"The Collector, or any Magistrate, or the Excise Commissioner, or any excise officer specially empowered by the Local Government may, subject to the prescribed restrictions, arrest without warrant, any person whom he has reason to believe to have committed any offence punishable under section 6."

So it is only an offence under section 6 which gives jurisdiction to a Magistrate to arrest. Section 6 of the Bill says:—

"Whoever sells except under a license."

That is the only ground—selling without a license.

Mr. NARENDRA KUMAR BASU: What about clause 2?

The Hon'ble Sir BROJENDRA LAL MITTER: Clause 2 says "when any person is convicted under this section, the court may direct that he shall pay, etc." So that has nothing to do with my argument. The only ground on which a person may be arrested is when he is selling without a license. What is this amendment? The amendment is if any person fails or refuses to pay the amount demanded from him under section 6, i.e., Dr. Sen Gupta's section 6. It says this: "Whoever sells or for the purpose of sale exposes (I do not read the whole section) or keeps tobacco in contravention of section 4." In contravention of section 4! Now section 4 is "No person shall sell wholesale or retail except under a license and in conformity with the conditions of such license." There are two elements in section 4—a license and condition of license. Under Dr. Sen Gupta's amendment a person is liable to be arrested not only when he sells without a license but also when he breaks a condition of the license; because under this section this liability is incurred when a person sells in contravention of section 4, and

section 4 has these two elements—selling without a license and breaking the terms of a license. Therefore, under Dr. Sen Gupta's amendment a person is liable to be arrested when he breaks a condition of license which is not in the Bill.

Mr. NARENDRA KUMAR BASU: But what about section 7?

The Hon'ble Sir BROJENDRA LAL MITTER: Now Mr. Narendra Kumar Basu says, what can be the condition of a license. I cannot imagine that he does not understand that and if I may say without offence this is mere stage play. He knows very well that under the condition of a license, locality may be limited. Then as regards different kinds of tobacco or tobacco preparations the maximum quantity he may keep for sale may be mentioned in the license. Supposing a man is selling tobacco in his shop, he may not be allowed to stock or store more tobacco than a prescribed amount in any other place without informing the excise officer.

Mr. NARENDRA KUMAR BASU: With great respect I say it is *ultra vires*——

The Hon'ble Sir BROJENDRA LAL MITTER: It may be one of the conditions that if you keep tobacco in any other place you will inform the authorities where your warehouse is. It may be a condition of the license. One can imagine many conditions, conditions *intra vires* not *ultra vires* of any such license. For breach of any such conditions under Dr. Sen Gupta's amendment a man will be liable to arrest. His amendment is much more rigorous than the provisions of the Bill.

Dr. NARESH CHANDRA SEN GUPTA: Has the Hon'ble Member read clause 7 of the Bill?

The Hon'ble Sir BROJENDRA LAL MITTER: I have read clause 7 which does not talk of arrest at all.

Maulvi SYED MAJID BAKSH: What about section 12?

The Hon'ble Sir BROJENDRA LAL MITTER: I have read section 12. You better read the Bill. Section 7 does not deal with arrest, and I am dealing with arrest. That is my first point. My second point is that in the matter of arrest section 7 of the amendment is much more rigorous than the Bill. Therefore, I submit that the provisions of the Bill, apart from the quantum of the fine, are less rigorous than the provisions of the amendment. Mr. Narendra Kumar Basu challenged the Government to say whether there is any other Act on the face of the earth where for the breach of license conditions a penalty of Rs. 100

is laid down. I can refer my friend to an enactment with which he is very familiar, but which for the moment he pretends to forget, that is the Calcutta Municipal Act. In the Calcutta Municipal Act for the sale of milk without a license the penalty is Rs. 100 and a daily fine of Rs. 10.

Mr. NARENDRA KUMAR BASU: But that is not for business purposes but for health purposes.

The Hon'ble Sir BROJENDRA LAL MITTER: Then, again, keeping a shop or a place for retail sale of drugs without a license the fine is Rs. 100 and daily penalty Rs. 20. It was sought to be made out that the provisions in the Bill were something monstrous——

Mr. NARENDRA KUMAR BASU: May I ask the Hon'ble Member to inform the House of the penalty under the Calcutta Municipal Act for the carrying on of trade without a license, not for health purposes.

The Hon'ble Sir BROJENDRA LAL MITTER: Selling milk is a trade; selling drugs is also a trade.

Mr. NARENDRA KUMAR BASU: There is a general section——

The Hon'ble Sir BROJENDRA LAL MITTER: We are dealing with a specific article. I have referred to sections in the Calcutta Municipal Act dealing with two specific articles. I am not dealing with Congress politics, but I am dealing with a specific article—tobacco. I have pointed out at least two specific articles in the Calcutta Municipal Act where the penalty for not taking out a license is Rs. 100 with a daily penalty of Rs. 10 in one case and Rs. 20 in another. There is another section under which any person selling anything in the Municipal Market without a license is liable to a fine of Rs. 20.

Mr. NARENDRA KUMAR BASU: What about the fee?

The Hon'ble Sir JOHN WOODHEAD: No fee.

The Hon'ble Sir BROJENDRA LAL MITTER: Coming to the amendment itself, I have submitted that the amendment is much more rigorous than the provisions in the Bill.

(Here the Hon'ble Member reached his time-limit but was allowed to go on.)

With regard to the other clauses, sub-clause (*3*) is covered by clauses 6 and 19 of the Bill.

Clause 7 of the amendment is covered by clause 12 of the Bill. Clause 7(*2*) is covered by clause 18 of the Bill. Clause 7(*3*) is

covered by clause 25 of the Bill. So all the clauses of the Bill have been rehashed and a different machinery has been suggested for the machinery we have provided. The only objection taken to our machinery is that it will be oppressive, but I have shown that if our machinery is oppressive the alternative will be much more oppressive. In two or three clauses everything is combined.

Mr. NARENDRA KUMAR BASU: On a personal explanation, Sir. Section 492 of the Calcutta Municipal Act says that whoever exercises a calling without a license he will be liable to a fine.

The Hon'ble Sir BROJENDRA LAL MITTER: How is it a personal explanation? It is a new argument.

Maulvi ABUL QUASEM: Sir, in connection with the criticism which has been made by the Hon'ble Member on the amendment of Dr. Naresh Chandra Sen Gupta, I would like to make a few observations. The Hon'ble Sir B. L. Mitter was pleased to place an interpretation upon Dr. Sen Gupta's proposed clause which I believe is not correct. Sir B. L. Mitter argues in this way: The moment an excise officer demands a certain fee from a particular person his liability stands unalterable for ever. The Magistrate cannot go into the question of liability. Because his liability is there the Magistrate has no jurisdiction to re-open the question of liability. He is precluded from going into that question. His business is that of a mere collecting agency. If I understood Sir B. L. Mitter aright, he spoke to that effect. With due respect I submit that he is wrong. I will refer him to section 113 of the Indian Railways Act. Sir, section 113 of the Indian Railways Act (Act IX of 1890) deals with the question of travelling without a pass or a ticket, etc. I would read sub-clause (*4*) of that section. It runs to this effect, and I hope every member of this House will at once realise what the purport of that section is:—

"If a passenger liable to pay the excess charge and fare mentioned in sub-section (*1*) or the excess charge and any difference of fare mentioned in sub-section (*2*) fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate."

The same language is used by Dr. Naresh Chandra Sen Gupta. Dr. Sen Gupta's draft follows closely the wording of the section as passed by the Indian Legislature. I want to put a short question to the Hon'ble Member. Does this section of the Railways Act mean that the Magistrate cannot go into the question of liability of the person concerned from whom the fine is sought to be realised? Are the Magistrate's

hands tied altogether? Is his function merely to recover the amount as the collecting agency and nothing more? I submit, no. If the Magistrate under the aforesaid section of the Railways Act, can go into the question of the liability of the person concerned—as it has been held in the Punjab that he can—certainly Dr. Sen Gupta's amendment will not disable him from doing so. The Magistrate as a judicial officer has every power to go into the question of liability of the person concerned. If he is not satisfied of his liability, the Magistrate will let him off scot-free. I do not understand how the Hon'ble Sir B. L. Mitter says that the Magistrate's hands are tied and that he cannot go into the question. Sir, I do humbly submit that Sir B. L. Mitter's interpretation is wrong and Dr. Sen Gupta is right as the wording of the amendment is practically taken wholesale from the Indian Railways Act.

Maulvi SYED MAJID BAKSH: Sir, in this serious debate I want to introduce a little hilarity. A certain American gentleman went to Australia to see a friend of his. The Australian friend took that American gentleman to the woods in order to show him the wild animals of Australia. As they were standing, a herd of wild horses passed by. The American gentleman asked what those animals were. The Australian friend said: "Those are our wild horses." The American gentleman said: "These are much smaller than American horses." A short while after, a herd of wild sheep passed by and the American gentleman asked: "What are they?" The Australian friend said: "These are wild sheep." The American gentleman said that they were much smaller than the American sheep. By this time the Australian friend got a little disgusted. Thereafter, when a herd of kangaroos passed and the American gentleman asked what they were, the Australian friend said that these were Australian grasshoppers, and enquired of the American friend whether he could be beaten at that. Sir, the provisions of this Bill remind me of this story of the Australian grasshoppers. For a fee of Re. 1 a fine of Rs. 100 is imposed. I have heard it said that although a fine of Rs. 100 is prescribed, it is not in all cases that the fine of Rs. 100 will be imposed. I agree, but I hope the Hon'ble Law Member recognises the fact that the amount of penalty generally connotes the magnitude of the offence. For example if there is a penalty of ten years to be imposed, it is not necessary that 10 years should be imposed. It is as well possible that one year will be imposed. In another offence the penalty of one year is prescribed, and the penalty of one year may very well be imposed. Therefore, the amount that is imposed is immaterial. The amount that is provided is the real thing and shows the magnitude of the offence. That a hawker hawking without a license is in danger of being hauled up for a fine of Rs. 100 is really a grave provision. I quite agree that both of us have a lot of common ground and that we want that there should be a penalty for breach of the law and the arm of the law should be sufficiently

long to overtake the culprit. But I do not agree that although the arm of the law may be sufficiently long, the grip should be inexorably tight. The grip ought to be firm but not unnecessarily harsh.

Coming to the amendment, a lot of controversial matters were raised by the Hon'ble the Revenue Member in a more or less harmless amendment. I find that the criticism of the Hon'ble Member is confined to the fact that he tries to show that the amendment is harsher than the section itself. I agree that some of the provisions which are not in these clauses, namely, 6-9, have been introduced in this amendment, but these are introduced in order to make the amendment harmonious and not harsh. If the provisions that are introduced here exist in the Bill and if they are transferred from one portion of the Bill to another in order to make it workable or to introduce a little harmony into it, I do not think that the Hon'ble Member's criticism that the amendment is harsher than the clauses is correct. It is simply a sort of casuistry that the Hon'ble Member has regaled us with and not really an argument. The Hon'ble Member pointed out that the Inspector of Excise is the person who imposes the penalty and bewailed our lot that a judicial mind was not interposed between the executive and the excise authority. I do not know whether he will be consistent in his attitude when a similar provision comes up before this Council and powers are sought to be given to the sub-inspector of police. However, that is a different matter. I submit that the provision is not at all what the Revenue Members asks us to believe, namely, that it is no doubt the Inspector of Excise who really finds out what the fine is to be, but his powers are limited. He should have no discretion in the matter. By sub-section (2) of section 6 Dr. Sen Gupta makes a provision that the fine should be twice the amount of the license fee in certain cases and equal to the amount of the license fee in other cases. Here the excise officer has no discretion of his own. He has got to follow the provisions of the law, and of course so far as that is concerned, there will be no judicial mind intervening, but the absence of the judicial mind will not tell very harshly upon the person concerned, and he will know what he will have to pay under the existing provisions. He will not have to depend upon the off-chance of being hauled up before a very liberally minded or mercifully disposed Magistrate and that he would be let off with a fine not even twice the amount of the license fee, but he also runs the risk of being hauled up before a very stringent Magistrate who may impose upon him a fine which might be much greater than the fine that sub-section (2) of section 6 seeks to impose. Under these circumstances it is better that the man knows his ground than to depend upon a chance. I would rather like to know where I stand than to depend upon a chance.

Now, to come to the provision for arrest which the Hon'ble Member made much of. The provision for arrest exists in clause 12 of the Bill. All these things have been pointed out already and I would point them

out again. The Hon'ble Member said that there is no provision for penalty for breach of conditions of a license. I would refer him to clause 7 of the Bill where he will find that there is a provision for penalty for breach of license. Next comes the power to arrest. As I have said, there is a provision for arrest in clause 12. So the Hon'ble Member cannot say that nowhere in the Bill there is any provision for arrest. The only thing is that certain provisions have been transferred bodily to these proposed clauses. The provisions of clause 12 of the Bill have been transferred to clause 7 as proposed in the amendment of Dr. Sen Gupta. So there need not be any double provision for arrest. If the amendment becomes a part of the Bill, then the provisions of clause 12 will not be necessary. All that the amendment will effect is that the provisions which are already in the Bill will be brought in a more compact form leaving it to the House not to make any such provision over again. Of course, Dr. Naresh Chandra Sen Gupta could not have mentioned all the clauses by means of this amendment, but it would have been much better if he could have done that. But it does not at all seem reasonable to say that his amendment seeks to introduce provisions more stringent than those that at present exist under the Bill. The provisions that he has embodied in his amendment do exist in the Bill here and there, and he has simply transferred them into his amendment to make them a homogenous whole and if that amendment is enacted there will be no difficulty when clauses 6, 7 and 8 of the Bill come up for consideration. In that case we shall not have to waste a lot of time and our work would be cut much shorter by means of this resolution. On the contrary if we discuss every one of those clauses we shall be losing much time, while, if the controversial provisions which are embodied in this amendment are at this stage discussed and accepted, then those provisions will not need further discussion and the House may very well say, when those clauses come up, that these provisions have already been considered and they are not necessary, and our work will be much shorter as I have already said. Therefore, Sir, I submit that this amendment does not deserve the criticisms that have been levelled against it.

(At this stage the Council was adjourned for 15 minutes.)

(After Adjournment.)

Maulvi ABDUS SAMAD: Sir, I rise to give my wholehearted support to the amendment of Dr. Naresh Chandra Sen Gupta: and in doing so, I am not going to traverse the grounds already covered by previous speakers. Enough has been said about the merits of this amendment as well as the penal provisions of this Bill. I am really surprised that a lawyer of Sir B. L. Mitter's eminence and experience should think that the provisions of Dr. Sen Gupta's amendment are more rigorous than the provisions of the Bill. We could not follow the logic of the Hon'ble

Member's argument. It may be that we, who have supported this motion are obtuse-minded and may not therefore have understood the arguments of the Hon'ble Member, but, Sir, the facts are there. We have seen the language of the amendment and we have also seen the language of the Bill provisions. By comparing the two anyone can see that the penal clauses in the Bill are more stringent, more rigorous and harsh. Now, Sir, what will happen if these provisions are allowed to remain? A man is required to take out a license for selling 1,000 *biris*; if he keeps in his possession 1,000 *biris* or more, he is required to take out a license. Now, Sir, the price of 1,000 *biris* is about Re. 1-4 and the man by selling these *biris* can expect to make a profit only of 3 annas or 4 annas, but by not taking out a license for selling a thousand *biris*, he will be liable under the Act to prosecution. He will be liable to be arrested and detained, brought before a Magistrate, and he will have to apply for bail for release and undergo trial, engage a pleader and all sorts of things—what harassment and expense he will have to incur for an offence by which he could expect to make a profit of only 3 annas or 4 annas! Now, Sir, here is an amendment which provides for a speedy and cheap remedy; the fine will be speedily realised and the culprit will not have to undergo the harassment of a criminal prosecution. Practically, Sir, the language of this amendment has been borrowed from the Indian Railways Act and the Municipal Act and their analogy with the provisions of the Indian Railways Act will be apparent by comparing these analogous provisions. It is clear, therefore, that the amendment is not more rigorous as has been alleged by the Hon'ble Revenue Member, but, on the contrary, it is consistent with the provisions of the Bill. And Government will not suffer anything in the shape of revenue and the revenue will be realised by a speedy process, and there will be no harassment of persons who want to evade the provisions of the law. Now, Sir, if the Hon'ble Member really thinks that the provisions of this amendment are more rigorous, then what is the harm in accepting the amendment? We the members want that this amendment should be accepted, and it is all the more reason that Government should accept it, since in that case Government will be relieved of any responsibility in future if it is adversely criticised by the public. Government could then say that this amendment was more rigorous than the provisions of our original Bill, but we could not help accepting it as the members of the Council wanted the amendment and we had to accede to their wishes. So there will be no responsibility on the shoulders of Government if they accept this amendment.

The Hon'ble Sir JOHN WOODHEAD: This amendment has given rise to many speeches and to a certain amount of heat. I share the views of my colleague, the Hon'ble Sir B. L. Mitter, and I will try and explain shortly why I do so. If members will read the amendment of Dr. Naresh Chandra Sen Gupta they will find that it enables any excise officer, authorised in that behalf by an Inspector of Excise in charge

of a district, to fine a man who has sold tobacco without a license, or who has committed a breach of his license. I think Dr. Naresh Chandra Sen Gupta agrees with this proposition.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Member kindly repeat his version?

The Hon'ble Sir JOHN WOODHEAD: Your amendment authorises an excise officer to impose a penalty upon a person who has sold tobacco without a license, or who has committed a breach of his license.

Dr. NARESH CHANDRA SEN GUPTA: I do not accept that version, Sir.

Mr. DEPUTY PRESIDENT: All right, let the Hon'ble Member proceed.

The Hon'ble Sir JOHN WOODHEAD: Sir, Dr. Sen Gupta's amendment reads as follows: "Whoever sells or for the purpose of sale exposes or keeps tobacco in contravention of section 4—section 4 speaks of sale or exposing or keeping for the purpose of sale any tobacco except under a license and in conformity with the conditions of such license,——and as I interpret the amendment it amounts to this: an excise officer, empowered in that behalf by an Inspector in charge of a district, can impose a penalty on any person whom he considers has sold tobacco without a license or in contravention of his license; and the penalty he is empowered to impose—he is given no discretion in the amount of the penalty—in the case of a person selling without a license, is twice the license fee the man should have paid, or rather twice the license fee the sub-inspector of excise considers the man should have paid *plus* the license fee. Now, Sir, in the Bill the power to impose a penalty is given to the courts and not to the officers of the Excise Department; and I am surprised to find a member of this House supporting a proposition which amounts to this—and remember, Sir, that one of the members who has supported the amendment made serious charges against the honesty and uprightness of the officers of the Excise Department—that excise officers of the rank of a sub-inspector shall be authorised to go round the countryside demanding the payment of penalties from persons whom they consider have committed offences under this Act. Do members realize what this amendment means? It means that and nothing else; and it further gives the officer the power, if the person does not pay the amount demanded, to arrest him, if his name and address are unknown or if he refuses to give his name and address.

Then, Sir, Maulvi Abul Quasem has said that under the amendment, as drafted, a Magistrate will not be a mere collecting authority. Sir, I maintain that he will be. The proposed clause is perfectly clear: it says:—

"If such person fails or refuses to pay the amount payable by him under this section on demand by an excise officer authorised as hereinbefore provided, the sum payable by him shall, on application made to any Magistrate by an excise officer authorized in this behalf, be recovered by a Magistrate from him as if it were a fine imposed by the Magistrate on the person charged with the same"; that is, it is to be realized as if it were a fine which had already been imposed. It is true, and I believe, Sir, that there is a ruling in connection with the Railways Act—an old ruling which, I understand, is not followed—which takes an opposite view. But the amendment, as it reads, is perfectly clear and can have no other meaning. It says that the penalty that the excise officer is authorized to impose shall be recovered by a Magistrate as if it were a fine imposed by a Magistrate on a person charged with the offence. But even, Sir, supposing for a moment that Maulvi Abul Quasem is right, does it carry us very much further? Does he expect this House to approve of the proposition that the sub-inspectors of excise shall be empowered to wander about the countryside imposing penalties on persons whom they consider to have committed offences under the Act and that these people shall be left to appeal to a Magistrate thirty miles away? These, Sir, are the main objections to this amendment. Instead of empowering the Magistrate to decide whether an offence has been committed and to impose a fine, it proposes to authorize excise officers to wander round the countryside imposing penalties on persons whom they consider have committed an offence.

A lot, Sir, has been said as regards the maximum penalty, which the Act permits to be imposed. But, Sir, after all, it is a maximum penalty and not the penalty which will always be imposed by the courts. But should not we remember that there may be the cases of persons who persist in committing offences.

Mr. NARENDRA KUMAR BASU: Year after year?

The Hon'ble Sir JOHN WOODHEAD: Not only year after year, but it may be month after month: I refer to persons who refuse to take out a license. Although I have been charged with citing precedents from other provinces, I shall have to lay myself open to that charge once again. The penalty in the Punjab Act—not the Bombay Act—is Rs. 100; and it may be of interest to Mr. Narendra Kumar Basu to know that in this case we have not followed the Bombay Act, which imposes a penalty of Rs. 200.

Mr. NARENDRA KUMAR BASU: You should stand aghast at your moderation!

The Hon'ble Sir JOHN WOODHEAD: Sir, I did not interrupt Mr. Basu when he spoke, and I hope he will not interrupt me.

Sir, as regards clause 7, there is an amendment (No. 120) to be moved by Maulvi Tamizuddin Khan in which he proposes to reduce the maximum penalty to Rs. 50. I am prepared to accept that amendment. The other amendments seeking to reduce the maximum penalty, I fear I shall have to oppose.

Sir, these are the reasons why I am opposing Dr. Sen Gupta's amendment No. 99.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimazzaman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdu Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Maulvi Tamizuddin.
Maiti, Mr. B.
Mittra, Babu Saret Chandra.
Qassem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahmen, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Cohen, Mr. D. J.
Das, Babu Surapresad.
Dutt, Mr. S. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. R.
Guha, Mr. P. N.
Hoque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. P. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nasheem Ali.
Lescee, Mr. G. W.
Maguire, Mr. L. T.
Mertie, Mr. C. H
Mitter, Mr. S. S.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nag, Babu Sub Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Naribarna.
Roy, Mr. Satiswar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Nam Chandra.
Saadatullah, Maulvi Muhammad.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr. W. H.
Townsend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 23 and the Noes 54, the motion was lost.

Mr. DEPUTY PRESIDENT: The House will, probably, realize that there is a great amount of work before us, and I am afraid that it might be necessary to sit beyond the usual hours from to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m. on Thursday, the 4th April, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 4th April, 1935, at 3 p.m.

Present:

Mr. Deputy President (Mr. RAZAUR RAHMAN KHAN, in the absence of the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 96 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Non-Bengalees in the Public Service.

*105. **Babu KISHORI MOHAN CHAUDHURI:** Will the Hon'ble Member in charge of the Appointment Department be pleased to lay on the table a statement showing the number of non-Bengalees at present in the various branches of the Public Service, including Police, as also the number of non-Bengalees in the different clerical, menial staff, including labour in the factories owned, managed or aided by the Government in Bengal?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Mr. R. N. Reid): A statement is laid on the table.

Statement referred to in the reply to starred question No. 105 showing the number of non-Bengalees employed under the Government of Bengal in the Provincial Services, special posts, Subordinate Services (excluding those in ministerial appointments), menials including labour in factories.

Department.	Provincial Services.	Special posts.	Subordinate Services.	Menials.	Remarks.
Legislative ..	..	..	..	9	
Local Self-Government.	..	..	..	10	Including 1 duftry.
Legislative Council	..	1	1	46	
Police—					
Bengal ..	2	..	16,743	141	
			7(*a*)	..	(*a*)Others.
			835(*b*)	..	(*b*)Eastern Frontier Rifles.
Calcutta ..	3	..	4,583	26	
			4(*c*)	..	(*c*)Others.
Commerce ..	20	4	..	47	
Revenue (Excise) ..	4	..	23	446	
Irrigation ..	..	2	3	183	
Public Works ..	6	5	4	762	
Agriculture and Industries.	5	6	20	754	
Finance ..	..	3	101	119	
Judicial ..	3(*d*)	3	28	285	(*d*)Bengalees but residents of Assam.
High Court ..	..	3	..	196	
Education ..	8	21	35	243	
Registration ..	..	..	6	41	
Medical ..	15	7	61	1,220	
Marine ..	..	..	6	21	
Public Health ..	1	5	3	36	
Political and Appointment Departments.	.. (*e*)	..	..	27	(*e*)There are 6 Anglo-Indian officers in service under the control of Appointment Department.
Jail ..	3	1	2,360	54	
Forest ..	..	..	227	268	
				55	Labour in factories.
Revenue ..	6	26	170	795(*f*) and 1,964(*g*)	(*f*)Labourers. (*g*)Includes Hill men.
Total ..	76	87	25,220	7,748	

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state how many non-Bengalees are there in the ministerial appointments?

The Hon'ble Mr. R. N. REID: I must ask for notice of the question, as ministerial appointments are not shown in the statement.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether, in the provincial services, these non-Bengalees were recruited because Bengalees with requisite qualifications were not available?

The Hon'ble Mr. R. N. REID: I think that was highly probable, Sir.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state the total number of Bengalees at present in the various branches of the public services, including the Police, ministerial and menial staff, as also labour?

The Hon'ble Mr. R. N. REID: It is quite obvious, Sir, that I cannot answer that question straightaway.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state the percentage of non-Bengalees at present in the various departments of Government?

The Hon'ble Mr. R. N. REID: I suggest, Sir, that the hon'ble member might put down the question on paper. I cannot answer that now.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Member be pleased to state whether the Bengalees whose number is given here include domiciled Bengalees or not?

The Hon'ble Mr. R. N. REID: The statement includes non-Bengalees, Sir.

Dr. NARESH CHANDRA SEN GUPTA: But does it include domiciled Bengalees?

The Hon'ble Mr. R. N. REID: I do not know what is meant by domiciled Bengalees.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state what proportion the figure 33,131, total of columns 2, 3, 4 and 5, bears to the total number of Bengalees employed in the various departments of Government?

The Hon'ble Mr. R. N. REID: I have no idea, Sir.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if any efforts were ever made to secure Bengalees for these posts?

The Hon'ble Mr. R. N. REID: Yes, Sir.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether it is not against the policy of the Government to appoint non-Bengalees when Bengalees with requisite qualifications are available?

The Hon'ble Mr. R. N. REID: Yes, it is against the policy of Government.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether Government realise the necessity for restricting all future appointments only to the Bengalees except where specialised knowledge is necessary or suitable Bengalee candidates are not available?

The Hon'ble Mr. R. N. REID: I think Government have given effect to that policy, Sir.

Mr. SHANTI SHEKHARESWAR RAY: Is it a fact, Sir, that when these posts were advertised, it was mentioned that preference would be given to Bengalees and to people domiciled in Bengal?

The Hon'ble Mr. R. N. REID: I am not aware, Sir, that these posts were advertised.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether it is on political grounds that non-Bengalees are appointed where Bengalees are available?

The Hon'ble Mr. R. N. REID: I cannot answer that question, Sir.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Charitable dispensaries.

80. Rai Bahadur SATYA KINKAR SAHANA: Will the Hon'ble Minister in charge of the Local Self-Government (Public Health) Department be pleased to lay on the table a copy of the statement showing for each of the districts—

(*i*) the present number of charitable dispensaries maintained; and

(*ii*) the amount of money paid by the Government for the proper running of the dispensaries?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*i*) A copy of the List of Hospitals, Dispensaries and other Medical Institutions in Bengal corrected up to March, 1935, in which information is given district by district is laid on the Library table.

(*ii*) The member is referred to Statement G appended to the Annual Report on the working of Hospitals and Dispensaries under the Government of Bengal for the year 1933, a copy of which is laid on the Library table.

Ministerial appointments given to scheduled castes in the Civil and Criminal Courts and Khas Mahal office in the Bakarganj district.

61. Babu LALIT KUMAR BAL: Will the Hon'ble Member in charge of the Appointment Department be pleased to lay on the table a statement showing since the 28th April, 1931, for the district of Bakarganj—

(*i*) the number of ministerial appointments in the Civil and Criminal Courts and khas mahal office;

(*ii*) the number of such appointments given to the Muhammadans, caste Hindus and the Scheduled Castes, respectively; and

(*iii*) the names and the castes of the persons so appointed from the caste Hindus and the Scheduled Castes?

The Hon'ble Mr. R. N. REID: A statement is laid on the table.

A.

Statement referred to in the reply to unstarred question No. 61, showing the number of ministerial appointments made in the Criminal Courts and Khas Mahal and District Judge's Offices in the district of Bakarganj since the 28th April, 1931.

Office.	Number of appointments.		Number of Muhammadans.		Number of Caste Hindus.		Number of Scheduled Castes		Remarks.
	Permanent.	Temporary.	Permanent.	Temporary.	Permanent.	Temporary.	Permanent.	Temporary.	
Collectorate and Magistracy.	28	24	9	12	17	6	1	6	One permanent post was filled by a Brahmo.
Khas Mahal ..	6	14	3	6	3	7	..	1	
District Judge's Office.	36	2	18	1	11	1	5	..	Two permanent posts were filled by Indian Christians.

B.

Statement shwoing the names and castes of Caste Hindus and members of Scheduled Castes referred to in the Statement "A."

Collectorate, and Magistracy.

PERMANENT.

Caste Hindus.

	Name.		Caste.
1.	Babu Ramesh Chandra Ghosh	..	Kayestha.
2.	Babu Aswini Kumar Dutt	..	Do.
3.	Babu Sailendra Nath Ghose	..	Do.
4.	Babu Atulananda Ganguly	..	Brahmin.
5.	Babu Narendra Nath Roy	..	Kayestha.
6.	Babu Sudhir Chandra Das	..	Do.
7.	Babu Santi Kumar Sen Gupta	..	Baidya.
8.	Babu Surendra Nath Basu	..	Kayestha.
9.	Babu Romoniranjan Ghose Roy	..	Do.
10.	Babu Birendra Chandra Das Gupta	..	Baidya.
11.	Babu Jagadish Narayan Gupta	..	Do.
12.	Babu Upendra Nath Ghose	..	Kayestha.
13.	Babu Nirode Baran Singh	..	Do.
14.	Babu Srish Chandra Chatterjee	..	Brahmin.
15.	Babu Sasadhar Roy Chowdhury	..	Do.
16.	Babu Jyotish Chandra Sen Gupta	..	Baidya.
17.	Babu Kumude Ranjan Banerjee	..	Brahmin.

Scheduled Caste.

1.	Babu Jadav Chandra Biswas	..	Namasudra.

TEMPORARY (at present employed).

Caste Hindus.

1.	Babu Amulya Kumar Mukherjee	..	Brahmin.
2.	Babu Sudhir Chandra Sen	..	Baidya.
3.	Babu Sachindra Nath Dutta	..	Kayestha.
4.	Babu Atul Kumar Sen	..	Baidya.
5.	Babu Nepal Chandra Ghosh	..	Kayestha.
6.	Babu Saroj Kumar Guha	..	Do.

	Name.		Caste.
	Scheduled Castes.		
1.	Babu Sarat Chandra Das	..	Namasudra.
2.	Babu Bipin Behari Nath	..	Jugi.
3.	Babu Kabya Kanta Mridha	..	Namasudra.
4.	Babu Khirode Behari Sarcar	..	Do.
5.	Babu Rakhal Chandra Mahara	..	Kaibarta.
6.	Babu Hara Govinda Bala	..	Namasudra.

Khas Mahal.

PERMANENT.

Caste Hindus.

1.	Babu Jogendra Nath Roy	..	Kayestha.
2.	Babu Keshab Lal Saha	..	Saha.
3.	Babu Jitendra Nath Bhattacharjee	..	Brahmin.

Scheduled Caste.

Nil.

TEMPORARY (at present employed).

Caste Hindus.

1.	Babu Priya Bandhu Das Gupta	..	Baidya.
2.	Babu Aswini Kumar Kunda	..	Teli.
3.	Babu Jyotish Ch. Karmakar	..	Goldsmith.
4.	Babu Sailesh Chandra Mitter	..	Kayestha.
5.	Babu Probodh Chandra Nag	..	Do.
6.	Babu Sudhendu Das Gupta	..	Baidya.
7.	Babu Harendra Kumar Das Gupta	..	Do.

Scheduled Caste.

1.	Babu Janardan Sukladas	..	Washerman.

District Judge's Office.

PERMANENT.

Caste Hindus.

	Name.		Caste.
1.	Babu Dhirendra Nath Sen	..	Baidya.
2.	Babu Jogendra Nath Mukherjee	..	Brahmin.
3.	Babu Mrinal Kumar Gupta	..	Baidya.
4.	Babu Hirannya Kumar Sen Gupta	..	Do.
5.	Babu Abani Kumar Roy	..	Kayestha.
6.	Babu Bipul Jyoti Ghosh	..	Do.
7.	Babu Mano Ranjan Guha	..	Do.
8.	Babu Birendra Nath Gupta	..	Baidya.
9.	Babu Mukunda Lal Ganguly	..	Brahmin.
10.	Babu Haradhan Mitra	..	Kayestha.
11.	Babu Beni Madhab Das	..	Shaha.

Scheduled Castes.

1.	Babu Pulin Chandra Das	..	Washerman.
2.	Babu Suresh Chandra Nath	..	Jugi.
3.	Babu Kshitish Chandra Sil	..	Barber.
4.	Babu Bipin Behari Barhal	..	Namasudra.
5.	Babu Nishi Kanta Halder	..	Do.

TEMPORARY.

Caste Hindu.

1.	Babu Birendra Kumar Ghosh	..	Kayestha.

Scheduled Caste.

Nil.

Babu AMULYADHAN RAY: With reference to the list of the scheduled castes, will the Hon'ble Member be pleased to refer to pages 4 and 5 of the questions and say whether the *jugis* and the barbers come under the classification of scheduled castes, as announced by the Government of Bengal?

The Hon'ble Mr. R. N. REID: I think they do, but I am not quite sure.

Dr. NARESH CHANDRA SEN GUPTA: Is it a fact that the *jugis* and some other castes, whether they come under the scheduled castes or not, are economically as well as educationally as backward as the rest of the scheduled castes?

Mr. DEPUTY PRESIDENT: That is a matter of opinion.

Maulvi ABDUL HAKIM: It appears from Statement A of the answer that there are nine Muhammadan clerks out of a total of 28 under Collectorate and Magistracy; will the Hon'ble Member be pleased to explain why there are a lesser number of Muhammadans than the minimum percentage prescribed for them?

The Hon'ble Mr. R. N. REID: I think the Hon'ble Member is referring to Statement A. I can only assume, Sir, that a sufficient number of qualified Muhammadans was not forthcoming.

Babu AMULYADHAN RAY: Will the Hon'ble Member draw the attention of the district authorities to the fact that the *jugis* and barbers are not included in the list of scheduled castes?

Dr. NARESH CHANDRA SEN GUPTA: On a point of order, Sir. Is this not a request for action.

Mr. DEPUTY PRESIDENT: It has been put in the form of a question, and I allow it.

The Hon'ble Mr. R. N. REID: I am prepared to draw their attention to it, after verifying the fact that the *jugis* and barbers are not scheduled castes.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Tobacco (Sales Licensing) Bill, 1935.

[The discussion on the Bengal Tobacco (Sales Licensing Bill, 1935, was then resumed.]

Clauses 6-9.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that for clauses 6 to 9, the following clauses be substituted, namely:—

"6. Whoever sells, or for the purpose of sale exposes or keeps any tobacco in contravention of section 4 shall be liable to a penalty equal

to twice the amount of the license fee payable by him, in addition to the license fee payable by him if such license fee has not already been paid.

7. (1) Whenever a Collector, Excise Commissioner or a Superintendent of Excise is satisfied on the report of an Excise Officer or otherwise and upon making such further investigation as he may deem fit, that any person has sold or for the purpose of sale exposed or kept or is selling or for the purpose of sale is exposing or keeping tobacco in contravention of section 4, within the jurisdiction of the Collector or within the local area over which the Commissioner of Excise, or Superintendent of Excise as the case may be, has authority he may make an order calling upon such person to pay the penalty payable under section 6 together with the license fee, if not already paid by him, and authorise any Excise Officer to execute the order.

(2) Any person against whom such an order for payment has been made shall, on payment of the sum ordered to be paid, to the officer executing the order, be entitled to be granted a license under section 5 for the period covering the date of the offence:

Provided that any person against whom such an order has been made shall have the liberty, notwithstanding that he has paid the amount, to apply to a Magistrate having jurisdiction in the local area for a refund of the amount so paid by him, and if the Magistrate is satisfied upon the evidence adduced before him that the penalty was improperly levied or that the amount levied was excessive, or more than he was liable to, he may direct that the amount so paid by the applicant or such portion of it as may have been improperly levied be refunded to him.

Any amount ordered to be paid under this section shall be realisable under section 386 of the Code of Criminal Procedure, 1898, by a Magistrate having jurisdiction in the local area where the infringement of the law has been made or where the person against whom the order has been made resides or carries on business, as if it were a fine imposed by such Magistrate."

Sir, this motion has got obvious analogy to the previous motions which the House had considered, and there are points of difference also. Sir, no crocodiles shed more tears for its prey than the Hon'ble Members speaking on behalf of Government did for the poor people, who were being so heavily taxed, yesterday. They were anxious that they should not be harassed, and that the powers in respect of these things should not extend more than what was necessary. The Hon'ble Sir Brojendra Lal Mitter, while speaking yesterday, so far forgot himself that he went to suggest that the powers proposed to be given under the previous amendment were more extensive than those given by the

Bill itself. If the Hon'ble Member thought that the proposal in my previous amendment did not contemplate the arrest of a person who had not had a license already and who acted in contravention of the terms of the license, such a person was not one whose name and whereabouts could remain unknown. However, Sir, this is one of the instances of the obvious fallacies and many pitfalls into which the Hon'ble Sir Brojendra Lal Mitter fell on account of his not having mastered his own brief. Sir John Woodhead, while explaining the position taken by Sir Brojendra Lal Mitter, said that in my previous proposal there was not the interposition of the judicial mind in regard to the imposition of the tax, and that my proposal meant that an excise officer authorised by an Inspector of Excise could impose the penalty. That was fallacious, but I leave that aside. Here there is no such question. In the first place, this amendment provides that the penalty can only be imposed by a Collector, Commissioner of Excise or a Superintendent of Excise. In the proposed clause 7, it is stated:—

"(1) Whenever a Collector, Excise Commissioner or a Superintendent of Excise is satisfied on the report of an excise officer or otherwise and upon making such further investigation as he may deem it, that any person has sold or for the purpose of sale exposed or kept or is selling or for the purpose of sale is exposing or keeping tobacco in contravention of section 4, within the jurisdiction of the Collector or within the local area over which the Commissioner of Excise, or Superintendent of Excise, as the case may be, has authority, he may make an order calling upon such person to pay the penalty payable under section 6 together with the license fee, if not already paid by him, and authorise any excise officer to execute the order."

Here, it will be seen, Sir, that if the Collector or the Excise Commissioner or the Superintendent of Excise receives information, he investigates into the matter, and if he is satisfied that there has been a breach of the law, he issues an order for levying the fine and authorises an excise officer to execute the order, that is to say, to realise that fine. If after that, the man who is penalised, does not pay the fine, provision has been made for realising the same, namely—

"Any amount ordered to be paid under this section shall be realisable under section 386 of the Code of Criminal Procedure, 1898, by a Magistrate having jurisdiction in the local area where the infringement of the law has been made or where the person against whom the order has been made resides or carries on business, as if it were a fine imposed by such Magistrate."

That is the way how the fine can be realised. Then, there is the interposition, not the superposition of the judicial mind or the metaposition, if you choose to call it (A VOICE: "Why not juxtaposition?"), in sub-clause (2), namely—

"Any person against whom such an order for payment has been made shall, on payment of the sum ordered to be paid to the officer

executing the order, be entitled to be granted a license under section 5 for the period covering the date of the offence:

Provided that any person against whom such an order has been made shall have the liberty, notwithstanding that he has paid the amount, to apply to a Magistrate having jurisdiction in the local area for a refund of the amount so paid by him, and if the Magistrate is satisfied —and there can be no doubt that here the Magistrate exercises his judicial mind—by the evidence adduced before him that the penalty was improperly levied, or that the amount levied was excessive, he may direct that the amount so paid by the applicant or such portion of it as may have been improperly levied be refunded to him."

With your permission, Sir, I would make a verbal alteration after the word "excessive," namely—

"or more than he was liable to,"

so that if he pays, well and good; but if he does not, the excise officer has got to go to the Magistrate to realise the fine. Even if the man pays, he has also got the right to go to the Magistrate and complain that the penalty has been improperly realised from him, and if the Magistrate is so satisfied, he may order a refund of the amount paid. This is the gist of my proposal. There can be no question that it saves the people from a lot of harassment.

The Hon'ble Sir John Woodhead as well as the Hon'ble Sir Brojendra Lal Mitter, when they were dilating on the perfect innocence of this measure, as compared with the drastic provisions of my amendment, forgot what people were in need of. Sir John Woodhead was scandalised at the idea that any excise officer should have the authority to go round, impose penalties and realise the same. I admit, Sir, that that would be a nuisance; it would certainly be a nuisance, and for that reason I opposed the Bill altogether. But compared with the nuisance that this Bill is going to be, my suggestion will be a welcome measure to the people. My hon'ble friends have forgotten that the provisions of the Bill are not exhausted by sections 6, 7 and 9 to which they referred. There is a provision in clause 12 "to arrest without warrant any person whom he has reason to believe to have committed any offence punishable under section 6 if such person refuses on demand to give his name and residence, or gives a name or residence which, in the opinion of the Collector, Magistrate, Excise Commissioner or Excise Officer, is false." They can also seize and detain any article which might have been seized under warrant under section 9. Then, besides that, clause 13 provides for the issue of a warrant for the arrest of any person—not by the Magistrate alone, but by the Collector or any Magistrate or the Excise Commissioner or any excise officer not below the rank of Superintendent of Excise. Then, clause 16 provides

for the trial. Then comes clause 17—I wonder if the hon'ble members who spoke on my last amendment ever examined what it meant. Clause 17 provides that the Collector or the Excise Commissioner or any excise officer specially empowered under section 16, may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise any of the powers conferred upon a police officer making an investigation, or upon an officer in charge of a police-station, by sections 160 to 171 of the Code of Criminal Procedure, 1898, and the said provisions of the said Code shall, subject to the prescribed restrictions or modifications, apply accordingly. Sir, these sections 160 to 171 provide for the investigation of cognizable offences, that is to say, offences of a most serious character, and have the power to arrest the offender and the power to search a place. Then it includes the power to record confessions; it makes provisions regarding recording of confessions, for power to remand to police custody and similar other very *mild* provisions to which persons trading in tobacco worth Rs. 6 without license will be exposed to. These are the provisions of the Bill which would disappear if either of my amendments were accepted which at the same time would leave it open to the Government to realise the full amount of its revenue. The thing is that we have got to find out the man who is suspected to be dealing in tobacco without license. As I said yesterday, if you cannot realise the money, what use is there to have these drastic laws. This would be like cooking a hare without catching it.

Sir, I submit that if an excise officer comes to know that a man has been selling tobacco in contravention of this Act, this provision gives ample security to the Government for realising its revenue. Then, Sir, it has been contended that there is no provision for arresting suspected persons, but that will come for consideration in subsequent sections. May I ask, Sir, why do you want powers of arrest and all this elaborate paraphernalia of police procedure for the trial of these offences. It may be said that there might be evasions, but evasions by whom? You must remember that you are realising this license tax for the whole year. Suppose a man sells tobacco for a single day: does the Government contemplate to prosecute that man? If it does so, I must say that Government is inviting troubles and complications and will have to provide for heavy expenditure, because it will require twice the number of existing excise officers for looking after all these petty cases. I take it that they do not contemplate the arrest of such casual offenders but persons who are systematically carrying on trade without any license. It is only those men who carry on a trade permanently or for a sufficiently long period, and it will not be difficult to find out such men if the excise officers want to find them out for serving processes. But if you sit down in your arm-chair and dream of possible contingencies, which really do not exist at all, you can imagine any number of them. Sir, this reminds me of a story. A

nyaic, a student who was reading *Naya*, went to an oilman's shop when the oil-mill was being driven by a bullock whose eyes were shut. When the man in charge of the mill came, the young student of *Naya* asked him, How is it that you leave this bullock alone and go away? Suppose he stops? The man answered, if he stops, there is a bell at his neck which will stop ringing, and I shall come to know it. Then said the student, suppose the bullock stops and shakes its head? And the answer was, "But, Pandit Mahasaya, the bullock had never been to the *tól* of a *nayaratna mahasaya*." That is the sort of subtle contingencies which the Government have in their imagination. Sir, the provisions in my amendment will meet all the contingencies which are likely to arise. Even if it does not, what is the amount of the revenue that the Government is going to lose this year? I do not think it will be more than five or ten or twenty thousand rupees. Let the Government take this risk, and if they find that the evasions are very considerable, they can come forward with another amendment, but for the time being let this obnoxious measure be as less obnoxious as possible. There has been a considerable amount of heat raised by yesterday's debate, but what is the point at issue? It is that Government want money. I say, Sir, let them have it: Have it by all means, but let the people live in peace at the same time. If this amendment is accepted, you will be able to realise your revenue, and at the same time there will be no occasion in that case for compounding the offences provided for in this section. Sir, Government does contemplate the compounding of the offences: Government does not want that these offenders should be hauled up before the Magistrate and punished. If that is so, why not accept my amendment?

With these words, Sir, I commend my amended motion to the acceptance of the House, if you will be pleased to permit me to make the verbal alterations I have suggested.

Mr. DEPUTY PRESIDENT: Yes, you may have my permission.

The Hon'ble Sir JOHN WOODHEAD: Sir, my objection to this proposal is in principle the same as to the one that Dr. Sen Gupta moved yesterday. As I explained yesterday, I object to any proposal which in effect empowers the executive of the Excise Department to convict and fine a person for having committed an offence under the Act. That objection applies equally strongly to this proposal. The proposal amounts to nothing more nor less than this, that the executive, which this time is not any excise officer but a Collector, the Commissioner of Excise or a Superintendent of Excise, should be given the power to decide that a man has committed an offence under this Act and the power to impose a penalty and to realise it. Sir, I object in principle to the measure that Dr. Sen Gupta proposes. I cannot state

it simpler than this, Government wish to adopt the normal procedure, the procedure of the Bill, that is that a person who is to be tried for committing an offence under the Act, shall be tried by a Magistrate. Under his amendment, Dr. Sen Gupta wishes to make the trial not by a Magistrate but by the Executive, that is by an officer who is responsible for the collection of the revenue. I object in principle to that procedure, and I would ask members of the House to imagine what would have happened if I had proposed this amendment. What would then have been the attitude of the members of the House? What would have been the attitude of Dr. Sen Gupta? Would he not have got up immediately and said, I strongly object to executive officers, who are responsible for collecting the revenue, being given in effect the power to try and impose penalties on persons for offences under the Act. That, Sir, in a nutshell, is my objection. I need not dilate any further on such a simple matter, my objection is one of principle; in principle I am opposed to the proposal that officers who are responsible for the collection of the revenue should in effect be given the power to convict and fine a person for an offence under the Act. I have also other observations to make as regards Dr. Sen Gupta's amendment. The proviso to Dr. Sen Gupta's clause 7 (2), read in conjunction with the last paragraph of his clause 7, as I read it means this, until a man has paid the penalty imposed by the executive officer, he cannot apply to the Magistrate. I do not know if Dr. Sen Gupta agrees with that view, but that is how I read the amendment because it says that the person shall be at liberty to apply to a Magistrate for a refund of the amount so paid by him. Obviously if he has not paid the amount he cannot apply for a refund of the amount.

Dr. NARESH CHANDRA SEN GUPTA: Please read the actual words.

The Hon'ble Sir JOHN WOODHEAD: I am reading the actual words. The actual words are that he may apply for a refund of the amount so paid by him and if he has not paid the amount, I fail to see how he can apply for a refund. So the position as I read this amendment is this, the executive officer passes an order imposing a penalty and authorises any excise officer to execute it. How it is to be executed is not indicated. I do not know whether Dr. Sen Gupta intends that the executive should have the power to attach the defaulter's property in order to realise the penalty or whether he contemplates that the power of execution should be limited to demanding from the person the payment of the penalty. If the excise officer fails to realise the penalty, then it is to be realised by the Magistrate as if it were a fine imposed by that Magistrate, and I assume that as Dr. Sen Gupta provides in his proviso for what I would describe as an appeal to the Magistrate against the order of the executive, he agrees that when a

Magistrate realises a fine under the last paragraph of his proposed clause 7, which he has taken from the Railway Act, the Magistrate is merely a collecting agency. If, as was urged yesterday, a Magistrate to whom application is made for the realisation of the fine, has power to go into the merits of the case, I fail to see the necessity for Dr. Sen Gupta's proviso to his clause 7 (2). As the amendment is worded, the position appears to me to be this: If the excise officer cannot realise the penalty, he applies to the Magistrate for its realisation as if it were a fine which had been imposed by the Magistrate, and if the Magistrate realises it, then and then only has the person the right to apply to the Magistrate and ask for a refund.

Dr. Sen Gupta has substituted certain words for the word "excessive." I do not follow either the word "excessive" or the words he has substituted because as I read clause 6 of his amendment the penalty is fixed, for the clause does not say a penalty not exceeding a certain amount. If the penalty can be neither more nor less than a certain amount I fail to realise how it can be excessive or how it can be more than the penalty he is liable to pay. But these are minor points, my main objection is one of principle; I oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: On a point of explanation, Sir. May I point out that the penalty may be double Rs. 6 or double Rs. 3.

Dr. Naresh Chandra Sen Gupta's motion was put and lost.

Mr. DEPUTY PRESIDENT: I propose to take up amendment No. 101 along with Nos. 103 to 110 because they relate to the same subject.

Mr. SHANTI SHEKHARESWAR RAY: Before we proceed further, I would like to ask the Member in charge of the Bill whether the license that is going to be raised by this measure comes under the head "Commerce" which is a Central subject, or under the head "Excise" which is a Provincial subject.

The Hon'ble Sir JOHN WOODHEAD: It does not come under "Commerce." I forget what particular head it comes under under the Devolution Rules.

Mr. SHANTI SHEKHARESWAR RAY: If it falls under the head "Commerce," it is not permissible for the Bengal Legislative Council to deal with this clause regarding the imposition of a fine.

Mr. DEPUTY PRESIDENT: We cannot stop the discussion of the Bill.

Mr. P. BANERJI: But, Sir, what about my friend Mr. Shanti Shekhareswar Ray's point of order?

Mr. SHANTI SHEKHARESWAR RAY: It is a very material point of order. In Rule 50 of the Devolution Rules it is clearly stated that it is only permissible for the Legislative Council to impose by legislation punishment by fine, penalty or imprisonment for enforcing any law of the province relating to provincial subjects, and excise is a provincial subject.

Mr. DEPUTY PRESIDENT: I will let you have my ruling on that point later on.

Maulvi SYED MAJID BAKSH: Amendments Nos. 101, 103 and 105 may be taken together, but the rest are quite different.

Clause 6.

Maulvi ABDUL HAKIM: Sir, I beg to move that for clause 6 the following be substituted, namely:—

"6. Whoever sells, exposes or keeps for sale tobacco in contravention of section 4, shall be liable to a penalty equal to twice the amount of the license fee payable by him in addition to the fee payable if not paid by him."

Sir, I have brought this amendment only to minimise the heavy punishment provided for in the Bill. Sir, this sort of offence, if such a thing is considered any offence at all, is nothing but a technical offence such as travelling by rail without paying adequate fare. There is a great deal of difference regarding offence between a person who has travelled, in excess, for any unavoidable cause in contravention of the terms of his ticket and a person who has travelled by rail without any ticket at all. At any rate the offence committed by the latter person is more serious than, and is of a different nature from, the offence committed by the former person. In all equity and justness, the man selling tobacco without license or in contravention of the terms of his license, should be treated as an offender who has committed no greater offence than the railway passenger who has defaulted and is punishable under section 113 of the Indian Railways Act which provides for a punishment similar to that suggested in my amendment. After all, the tobacco dealer is not as hateful as a thief or a person who sells stolen property, for the simple reason that the tobacco seller sells his own article purchased by his own money earned by the sweat of his brow. In fact, the offence described in this clause, if considered any offence at all, by this unfortunate Act, is a very trivial revenue offence like the offence of the person who has travelled in excess of

the journey allowable by his ticket, as I said before, and should not be considered as thefts or burglaries and other serious offences. As I said before, Sir, the burden of taxation will fall directly or indirectly to the poor cultivators also who toil day and night in their field for their daily bread. If a heavy punishment as suggested by the clause is imposed upon the tobacco sellers, the prestige of the Indian Railways Act is also disregarded altogether and none of us should vote in that way. The Hon'ble Member has said that Bombay has passed a similar Act with a provision of similar fine. Sir, the Hon'ble Member is an Englishman and I appeal to him to remember the spirit and sense of justice which characterises his nation. If I say from my own mouth I must say that British people are not only exceedingly polite in their manners, but they are also great lovers of justice. It was the British people who fought bravely for the abolition of slavery from the world. I remember the story of Wilberforce who fought bravely for the emancipation of slaves on earth at a great sacrifice. And I have not the least hesitation to say that it was the British court which first of all made the memorable declaration "that as soon as any slave touches the English shore he becomes free." Sir, I am astonished to think why the Hon'ble the Finance Member, forgetting all the traditions of his motherland, has become eager to provide for a heavy punishment for a slight technical offence. Is it not aiming a gun to kill a mosquito? I appeal also to the hearts of all English members of this House to remember the noble traditions of their race and hope that they would not be cruel upon the Indian people in this matter and would agree with me to this amendment for providing for a proper and equitable punishment for the technical offence. I appeal to the nominated members, too, of this House for supporting my motion. Though they are regarded as adopted sons of Government, they should think and think seriously that they are born of the same motherland as their elected brothers. I also mention if any slight change in wording is required in this amendment, the Hon'ble Member in charge may suggest it for the acceptance of the House. With these words I commend my motion to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 6 (*1*), last line, for the words "which may extend to one hundred rupees," the words "equal to twice the amount of the license fees which he should have paid" be substituted.

Sir, this amendment differs from the amendment of Maulvi Abdul Hakim in this, that in his proposal the same penalty is provided for both the offence under this clause and the offence under clause 7 of the Bill. It is twice the amount of the license fee payable in both cases. My amendment proposes the penalty of twice the amount of the license fee which should have been paid only in the case of selling or keeping tobacco without a license. The other offence under clause

7 is treated in a separate amendment under that clause. Sir, the question was somewhat debated yesterday and Mr. Narendra Kumar Basu pointed out to the Hon'ble the Revenue Member that under the Calcutta Municipal Act the penalty for trading without a license is exactly the amount of the license fee. Sir Brojendra Lal Mitter raised false issues, if I may say so, by referring to other offences. I could have understood his argument, if tobacco was a deleterious drug which was sought to be prohibited. I could have understood his argument, if tobacco was an article of food which would affect the health of the people and which had therefore to be vended under close public supervision. I could have understood his argument, if tobacco was a dangerous commodity like gunpowder or dynamite. It was none of these. No question of keeping control over the quality or quantity of the article arises in this case. The Government only wants a little revenue and for that purpose imposes a license fee. There is no question of the limitation of the quantity or quality of the tobacco sold. The question is whether it should be a wholesaler's or a retailer's license. That being so, sufficient penalty would be what is indicated by the Calcutta Municipal Act. Sir Brojendra Lal Mitter read certain portions of certain penalties for certain offences prescribed by section 488, which have no likeness to trading in tobacco without a license. The relevant provision of the Calcutta Municipal Act was read by Mr. Narendra Kumar Basu yesterday, and if you look at section 488, you will find a close analogy in another case. For instance, for an offence under section 108 (3) for keeping or possessing a cart not duly registered, the fine is twice the amount payable for registration exclusive of the amount so payable. That is what we seek to provide by this—twice the amount of the license fee exclusive of the license fee payable. If that has sufficed to enforce the registration of carts, if that has sufficed to enforce the provision regarding the taking out of licenses for trade in Calcutta, I think it ought to suffice for enforcing the taking out of licenses for the sale of tobacco here as well as in the mufassal. Judging by the elaborate casuistry with which Government members have sought to support their absolutely unsustainable policy in this matter, I would not be surprised if Government make distinction without difference. If the penalty is low, the evasion will be more; in other words, in order to make evasion impossible, the only remedy that the Hon'ble Member could think of was to hold *in terrorum* a drastic penalty. Well, if that is the object, I should say that the maximum penalty of Rs. 100 is altogether insufficient. He might increase it further and perhaps he might also think of applying the Whipping Act in this case. However, that is altogether a different matter. The maximum penalty of Rs. 100 is not sufficient for this purpose. It depends upon the efficiency of the collecting agency. If you have an efficient collecting agency, then what I am proposing would be sufficient for the purpose of enforcing the law.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 6 (*1*), last line, for the words "one hundred rupees," the words "a sum equal to a license fee chargeable under this Act" be substituted.

Sir, I do not understand why the Government are so very vindictive and show a contumacious disregard to all the rules of equity and justice. The punishment proposed in the Bill is certainly out of all proportion to the offence in view.

Maulvi SYED MAJID BAKSH: Sir, I rise to a point of order. If I understand these two amendments aright, it means that the man who violates these rules has no alternative but to pay a fine equal to twice the amount of the license fee. This is one amendment, whereas according to the amendment of my friend Kazi Emdadul Hoque the fine may extend to a sum equal to the amount of the license fee. So, one is compulsory and the other discretionary.

Mr. DEPUTY PRESIDENT: You need not dispute that.

Maulvi SYED MAJID BAKSH: My point is that as a rule one kind of amendments only and not of different kinds should be moved together. But here I find that the section as it is worded in the Bill is a discretionary section, inasmuch as it says that the fine may extend to Rs. 100. The amendment of Dr. Naresh Chandra Sen Gupta says that the man shall be punished with fine equal to twice the amount of the license fee, whereas the amendment of Kazi Emdadul Hoque lays down that the man shall be punished with fine which may extend to a sum equal to the license fee. So, it will be seen that in one case it is compulsion and in another case it is discretion. Therefore, they are of different kinds.

The Hon'ble Sir JOHN WOODHEAD: Sir, I raise no objection if these are moved together.

Mr. DEPUTY PRESIDENT: I think the sense of the House is that these should be discussed together.

Kazi EMDADUL HOQUE: Sir, as I was saying the punishment prescribed in the Bill is out of all proportion to the offence in view. It is a condign punishment for a trivial offence. What is this punishment of Rs. 100 for? This punishment of Rs. 100 is provided for the offence committed by a person in selling or keeping tobacco for the purpose of sale or even storing it. As some of my friends said yesterday, if a man sells 1,000 cigarettes and makes a profit of 4 annas without a license, he shall be punished with a fine of Rs. 100. Now, Sir, what is an offence? An offence is committed only when a particular act is done illegally. When a person sells tobacco without

taking out a license, certainly he commits an offence. But to make a man liable to punishment merely because he is keeping or exposing tobacco for the purpose of sale is something monstrous. It may be that a man may purchase some tobacco and stock it not for the purpose of immediate sale: he may go on storing year after year to have a big stock and then sell it and make some profit. If he has not in his mind to dispose of the tobacco which he purchases in the very same year, I do not see why he should be required to take out a license. Suppose a man stores up a certain quantity of tobacco, a portion of which is meant for his domestic consumption and the rest for sale when the market improves, say two or three years later. Why should that man in that case be required to take out a license? I therefore say that an offence will be committed only when the man without taking any license will actually be selling the things or articles, but not before that. If the man simply keeps a stock of tobacco in his possession, that is not a sufficient ground to hold that the man's intention is to deprive Government of its just revenues. It may well be that he is collecting a stock of all these articles with a view to sell them off during the third or fourth year of the purchase when, of course, he will have to take a license. So I repeat, Sir, that when he wants to dispose of his articles, then and then only, should the question of taking out a license occur, but not if he goes on stocking his articles with a view to selling them after a certain time. Well, where is his bad intention or motive? Certainly he may have every intention of obtaining a license at the proper time, and only at that time if he does not take out a license he may be found fault with. In that case only there may be some justification for imposing a fine upon him, but here you are going to provide punishment even for stocking the tobacco. That seems to me, Sir, to be simply absurd and cannot at all be justified. I therefore think that Government should see their way to accept this amendment. With these words I commend my motion.

Mr. DEPUTY PRESIDENT: Babu Khetter Mohan Ray may now move his motion No. 108.

Maulvi SYED MAJID BAKSH: May I know your reasons, Sir, why you are allowing this motion to be moved at this stage? I raised a point of order that even No. 106 could not be moved, as it was not quite appropriate.

Mr. DEPUTY PRESIDENT: I think there is no objection and also that it is the intention of the House that all these motions should be discussed together.

Maulvi SYED MAJID BAKSH: It is a point of order, Sir, and not a matter of intention of this House or of the Hon'ble Member. I simply raise the point of order that this motion belongs to a different category altogether. As a matter of fact, it cannot be said that all the amendments under clause 6 should be discussed together. Then, where is the line of distinction to be drawn?

Mr. DEPUTY PRESIDENT: Here the question is as to the amount of fine that will be leviable, and I think it would be better if we had a general discussion on that and put the motions separately: it would also save the time of the Council. At the beginning I put it to the House whether any member had any objection to my proceeding in this way and nobody raised any objection. Even now I find that there is hardly any objection. Therefore, I do rule that all these questions may be discussed together but voted upon separately.

Babu KHETTER MOHAN RAY: With your permission, Sir, I would like to move my amendment in an amended form, that is, that in place of Rs. 25, Rs. 50 should be substituted, so that the whole thing would read thus:—"That in clause 6(*1*), last line, for the words "one hundred rupees," the words "fifty rupees" be substituted.

My reasons for moving this maximum amount of fine are that the fine of Rs. 100 is out of all proportion to the iniquity of the offence. In municipal areas, Sir, licenses are also required to be taken out for various purposes, infringement of municipal by-laws, etc., and some offences are visited with a fine not exceeding Rs. 15 or Rs. 20, but it is simply monstrous and out of all proportion that the maximum fine in this case should be as much as Rs. 100 for avoiding a maximum license fee of only Rs. 6. I think, therefore, that Rs. 50 is a sufficient deterrent punishment for such an offence. I do not think I need add more in support of my motion.

Mr. P. BANERJI: Sir, I beg to move that in clause 6 (*1*), last line, for the words "one hundred rupees" the words "ten rupees" be substituted.

It has been sufficiently explained by other speakers that this fine is certainly the heaviest ever heard of, and I find no reason why such a fine should be imposed for the realisation of such a small license fee. Yesterday, while discussing the law point on the subject, the Hon'ble Sir Brojendra Lal Mitter asked us to believe that he was quite in order, while the members speaking from this side of the House were not in order. Though not a lawyer myself, Sir, I hold that law is only the common-sense view of a thing.

The Hon'ble Sir BROJENDRA LAL MITTER: No, no; a great deal more than that.

Mr. P. BANERJI: And criticising the view of the Hon'ble Member the leader of the opposition remarked that the Bombay Act was his *Vedas* and there the punishment was a fine extending to Rs. 100. But, Sir, where is the difference between the two points? Government hope to stop the nuisance of selling unlicensed tobacco by imposing this fine, but do not they know how excessive the punishment seems to be? Government certainly do not say that selling of tobacco leaves is such an offence that a deterrent punishment should be inflicted, namely, a fine of Rs. 100. The Hon'ble Member cited the case of the Municipal Act in regard to adulteration of milk. If, Sir, in that connection there is a heavy fine, what is the object? The object is that adulterated milk sold by unscrupulous people might ruin the health of the people and what do we find in section 492 of the Calcutta Municipal Act of which he made so much? In this section we find that for not taking out a license certain people are punished with a fine. But, Sir, what are the offences?

(1) If any person—

(*a*) owns or is in charge of any carriage or animal liable to any tax imposed under Chapter XI, or

(*b*) exercises on or after the first day of July in any year, any profession, trade or calling referred to in Chapter XII, or

(*c*) exercises on or after the first day of June or the first day of December in any year any calling referred to in Chapter XIII,

without having the license prescribed by those chapters, respectively, he shall be punished with fine which—

(*i*) may extend to three times the amount payable in respect of such license, and

(*ii*) shall not ordinarily be less than one and a half times such amount.

(2) Such fine, when levied, shall be taken in full satisfaction of the demand on account of the said license.

But, here, Sir, in the case of this Tobacco Bill, we are surprised to find nothing of the sort mentioned. The fee here is Rs. 6, Rs. 3 and Re. 1 and if the Hon'ble Member wants to stand by this section, what will he find? He will find that the fine ought to be only three

times the license fee in each case, but in no case will it be less than one and a half times. Here no such thing finds a place. The Bill simply says that a defaulting man shall be punished with a fine which may extend to Rs. 100. In fact, when the Hon'ble Member was fighting for his principle yesterday, he became very generous; so he might just as well say that the Magistrate would fine only one or two rupees; but, Sir, if that is his idea, why not do it now? The Hon'ble Member was suggesting that as a matter of principle. He wants the fine in order that justice might be done by a Magistrate, but he fails to understand that there in this Bill the fine may be imposed up to Rs. 100. From our experience we know that whenever a Presidency Magistrate sees such a provision in the law, his sentence will at once go to the maximum, namely, Rs. 100. And if the Hon'ble Member is prepared to make an enquiry, he will find that in 99 cases out of 100 it is only the maximum punishment that is given. That being the case, after so much heat the Hon'ble Member thought that this Tobacco Bill would end in smoke, but it did not. There was a lot of heat and that heat at least brought him to make a suggestion that the fine might be reduced to Rs. 50. Sir, he came down from Rs. 100 to Rs. 50 and he is prepared to accept an amendment to that effect. Even if we take that Rs. 50 and even if the members that stood up for his support took his brief, even then I consider that it would rather worsen the case. The delay that has been caused to the passage of this Bill is due to the intervention of the Hon'ble Law Member; otherwise, the things would have been disposed off more quickly. This Rs. 50 even cannot be justified because even the Calcutta Municipal Act, to which the members have been referred to in this debate, does not contain such a high amount of fine. If that is so, it is not fair for the Hon'ble Member to accept the amendments that have been tabled? I do not of course care whether the Hon'ble Member pleases to accept my amendment or any other amendment of an equally reasonable nature. What we are asking for is simply to follow the Calcutta Municipal Act where the punishment laid down is three times the fee but not less than one and half times. In that case the highest punishment would be Rs. 3, Rs. 9 and Rs. 18, for a hawker, a retailer and a wholesaler, respectively. Sir, my suggestion is very moderate. I have suggested only Rs. 10, and that is the limit. Even if the Magistrate, as the Hon'ble Member in charge of the Bill thinks, be very lenient and generous, in most cases the dealer will try to evade the law. But, I do not think, Sir, that the wholesale dealer will try to do it, though it may be that the retailers or the hawkers will try to evade payment. I do not think that they will transgress the law by not paying Rs. 3 or Re. 1; but when they do so, it is natural to suppose that these poor persons are not in a position to pay even these small amounts. And if they cannot pay these small

amounts, the result would be that they would be placed at the mercy of these excise officers. It has been maintained that it is not the policy of Government to harass the people in any way. While opposing Dr. Sen Gupta's amendment yesterday, the Hon'ble Member said that Government's proposal was less oppressive than that of Dr. Sen Gupta. If the intention of Government is that they want to be less oppressive or if they do not like that the people in the countryside should be harassed in any way, is it not in the fitness of things that Government should accept this amendment of mine? Of course, by accepting this, Government will not be a loser. If the Hon'ble Member thinks that they will have an additional income of 100 or even 33, or even 15 times from other sources, in that case I might submit to you that Government are giving an additional handle to the Excise Department in this matter. You are aware, Sir, how the people in the countryside have been hard hit on account of the economic depression and also owing to the political situation in the country, for the payment of *chaukidari* taxes in many districts and for the payment of rents to the *zemindars*. Sir, when these poor people will feel the effect of the provisions of this Bill—and they are already hard hit, as I have said—and when they will again be subjected to this sort of harassment at the hands of the excise officers, the result will be that they will be absolutely ruined. I shall cite a particular case of a retailer or a hawker who refuses to pay Rs. 3 or Re. 1 and evades the law, incurs the risk of being fined to the extent of Rs. 100, and this fine of Rs. 100 means in such a person's case—and I may say this without fear of any contradiction—that in 99 cases out of 100 that he has not the means even by selling all his domestic articles and belongings to pay Rs. 100. If, for instance the law takes its course, what will happen? It will mean the utter ruination of the poor people in the countryside.

Then, Sir, there is another side of this question, and it was referred to by my friend Mr. Shanti Shekhareswar Ray yesterday. It is the political side of this question. As we have often said, additional handle has been given by many actions of the police and the military. The excise officers only have not had so far any scope of touching the people. But by this Act you are sending another army of Government about the countryside, to commit acts of oppression on the people. What we feel from this side of the House is that by disturbing the peace and contentment of the poor and innocent people throughout the countryside, Government may carry on for a time, but they cannot go on for all time to come, as they possibly expect to do. We, therefore, think that for that purpose this deterrent punishment is sought to be made; as otherwise, I consider, there cannot be any justification for this provision. Although the Government had before them

all the previous Acts, such as the Calcutta Municipal Act, which the Hon'ble Member made so much of but which he did not consult when Government drafted this Bill, I do not know why they put in such a deterrent provision in the present Bill. This shows that Government want to give an additional handle to the Excise Department for oppressing the people, and that is the only justification for this provision.

Sir, with these words I commend my amendment to the acceptance of the House.

(The Council was at this stage adjourned for 15 minutes.)

(After Adjournment.)

Mr. DEPUTY PRESIDENT: Mr. Ray, as regards the point of order raised by you, I would refer you to section 80A of the Government of India Act. This Bill is a measure affecting the territories of this province.

Under section 80A(3), the local Legislature may, with the previous sanction of the Governor General, make or take into consideration a law imposing a new tax. This Bill has received sanction of the Governor General, as you will find from the Preamble of the Bill. I, therefore, rule that this Council is fully empowered to place this Bill on the Statute Book under item 48, Part II, of the Devolution Rules, read with section 80A(3) of the Government of India Act.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am in a most embarrassing position in the absence of a statement from the Hon'ble Member in charge of the Bill in connection with the point of order on which you have just been pleased to give a ruling. Sir, I wanted to hear from the Hon'ble Sir John Woodhead under what head of the Devolution Rules he wanted to raise this new taxation. He uttered just one word, and that was "taxation." It does not help us much. We ought to be sure as to what purpose this tax is being proposed to be levied. It may be very helpful to him to avoid giving us the information that I seek at this stage, because I believe he is not clear in his own mind as regards the implication and the ultimate destination of this tax. Sir, as you are aware of the constitutional position, it is within the power of the Bengal Government to impose certain——

Mr. DEPUTY PRESIDENT: Mr. Ray, on that point I have already given my ruling.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I do not challenge your ruling. If my remarks have no relevancy, at any rate they have a bearing on the fine that you are going to impose under this clause.

The Hon'ble Sir JOHN WOODHEAD: Sir, may I suggest that the member should confine his remarks to the amendment before the House?

Mr. DEPUTY PRESIDENT: Mr. Ray, I have already given my ruling on that point and I hope you will abide by my ruling.

Mr. SHANTI SHEKHARESWAR RAY: If he had given us an idea for what purpose we are raising this tax, whether for local authorities or for the Local Government, it would have helped me in coming to a decision as regards the particular amendment about the imposition of fine that is proposed in this clause as amended by my friend Mr. P. Banerji. The whole point is this: Whether this tax is a tax, to be treated as an excise duty or whether it is a tax under Schedule I which is intended for the purpose of the Local Government or under Schedule II which is intended for local authorities.

Mr. K. C. RAY CHOWDHURY: On a point of order, Sir. The question of excise duty was raised and was disposed of by your ruling.

Mr. DEPUTY PRESIDENT: Order, order. You have also seen in the Statement of Objects and Reasons why this tax is being raised. I think at present you had better restrict your remarks to the amendment under discussion.

Mr. SHANTI SHEKHARESWAR RAY: The statement of the Hon'ble Member will be helpful in coming to a decision as regards the whole Bill.

Mr. DEPUTY PRESIDENT. What information do you like to have from the Hon'ble Member?

Mr. SHANTI SHEKHARESWAR RAY: I would like to know whether he is raising the tax as excise duty under Schedule I or Schedule II of the Schedule of Taxes.

Mr. DEPUTY PRESIDENT: We will consider that question later on. You had better proceed with the amendment now.

The Hon'ble Sir JOHN WOODHEAD: The taxation is raised for provincial revenues.

Mr. SHANTI SHEKHARESWAR RAY: Now we have got something definite. The Hon'ble Member says that this tax is raised for provincial revenues. My position is this, that he is not entitled to raise this tax for the purpose of provincial revenues, because it is a tax under Schedule II which says that Government may impose this tax for the local authorities just as they impose a tax on motor vehicles which are earmarked for the local bodies. Government could not get that money for provincial revenues.

The Hon'ble Sir JOHN WOODHEAD: Sir, as you gave your ruling the House ought to proceed with the Bill.

Mr. SHANTI SHEKHARESWAR RAY: I am attacking the position of the Government of Bengal.

Mr. DEPUTY PRESIDENT: I have given my ruling and the House should go on with the Bill. You must restrict yourself to the specific amendment.

Mr. K. C. RAY CHOWDHURY: I want your ruling whether at this stage anything affecting the competence of the Government to enact such Bills as he says can be advanced now.

Mr. DEPUTY PRESIDENT: I have given my ruling. Government has power to proceed with the Bill.

Mr. SHANTI SHEKHARESWAR RAY: I shall reserve my remarks on that point for future occasion. As regards the particular question of fine, I think if it is intended as contribution towards provincial funds, the fine ought not to be very heavy, because as the Hon'ble Member says, his object is to raise certain money for the provincial funds. The previous speakers have already suggested the reasons for not placing the fine at a very high figure, as it is unnecessary, and I would suggest that Government should accept the very reasonable amendment placed before the House by Mr. Banerji.

Dr. NARESH CHANDRA SEN GUPTA: On a point of order, Sir. Can the hon'ble member move an amendment which has already been moved?

Mr. DEPUTY PRESIDENT: It is a different motion. With special permission he has altered the words "twenty-five rupees" to "fifty rupees."

Maulvi ABDUL HAKIM: Sir, I have moved this amendment as well as No. 101 and No. 109 only for minimising the punishment that has been proposed in this Bill. If my amendment No. 101 fails, I shall press this amendment No. 109. In my previous speeches I have given all the reasons for moving this amendment, and I do not like to be long on this motion. Only I want to say that the punishment in the Bill is too severe. It should be minimised. If the Hon'ble Member cannot accept my amendment No. 101, I appeal to him to accept this amendment. This will also minimise the punishment to a great extent. I do not like to say anything more. I have studied Indian history and I have read the story that Maharaja Nanda Kumar was hanged not for committing murder but for committing a lesser offence. By the introduction of this Bill I can fairly assume that the Hon'ble the Finance Member is trying a serious legislation at a time when the province is about to get reformed constitution in the near future. I hope the Hon'ble Member will accept this amendment in case he does not accept amendment No. 101, so that the punishment may not be too severe for a slight offence.

Maulvi ABDUL HAKIM: On a point of order, Sir. Amendment No. 109 has not been moved because you did not call me.

Mr. DEPUTY PRESIDENT: Amendment No. 109 is the same as No. 108.

Maulvi ABDUL HAKIM: Still I want to move it. May I do so?

Mr. DEPUTY PRESIDENT: Yes, you can.

Maulvi ABDUL HAKIM: I beg to move that in clause 6(*1*), last line, for the words "one hundred rupees," the words "twenty-five rupees" be substituted.

Babu KISHORI MOHAN CHAUDHURI: This is a matter in which there need not be any great difference between the Hon'ble Member in charge of the Bill and the other members of the House. If the Government is very anxious that it should be done in a particular way, let it be done, but as some of the members desire that there may not be any harassment for non-taking of licenses, I hope the Hon'ble Member in charge of the Bill will accede to this. I think in the case of taking out gun license and the municipal license for carrying on trade or for bullock-carts or hackney-carriages simpler method is

adopted and very heavy punishment need not be provided in such cases. As there is an apprehension in the minds of some members of the House and the majority of those who are siding with Government with the intention of having this Bill passed as desired by Government, still I believe no-body wishes that in this case the punishment should be very high. If the object is gained that anyhow the licenses are properly taken and the taxes are regularly realised, I think the Government may not have any *zid for* the amount of fine. Some propose that the fine should be Rs. 10, while others suggest that it should not be more than Rs. 25, but Government think that it should be not more than Rs. 50. It is a very simple question, and I do not see any reason why we are fighting so much for this. If the desire of the members is that there should not be any harassment and if the Hon'ble Member in charge of the Bill thinks that there should not be a heavy fine to be imposed, in that case I think a *via media* may be found and the whole question could be easily settled. With this suggestion I support the motion.

The Hon'ble Sir JOHN WOODHEAD: There has been a lot of discussion over this "poor" maximum fine of Rs. 100 and many members in objecting to what is a maximum penalty have argued on the assumption that the maximum fine will always be imposed. But surely, Sir, there is nothing in that argument. Because a Magistrate is empowered to impose a fine not exceeding Rs. 100 it does not follow that he will always impose the maximum. Personally I doubt whether the maximum is, as some members have urged, altogether out of proportion to the offence, for it must be remembered that although the proposed license fees are very small—they are certainly small—the maximum fine must be adequate for all cases of a person committing an offence under the Act, for instance the person who persistently refuses to take out a license. We must remember also that we shall be dealing with people who although they may be paying a small license fee of Rs. 6 may be large dealers. But I recognise there is in the House a feeling that a maximum fine of Rs. 100 is too high. I am not personally worried about the pitch of the fine. After all, my experience is that the maximum fine is not often imposed by the courts. The court reserves the maximum fine for what it considers the most serious offences, the extreme cases. Again, as regards whether the fine should be fixed at so many times the license fee or as in this Bill subject to a maximum I could cite examples for and against, examples to support the proposition that the fine should be limited to a certain number of times the license fee, examples to support the prescription as in the Bill, of a maximum fine; in fact, in the Act I looked at I found the two methods adopted side by

side. But, as I have said I recognize that the House feels strongly on this point—I hope the House will also recognize that I desire to meet them—and I am prepared to agree to the maximum fine being reduced to Rs. 50.

I oppose all the other amendments.

The motion of Maulvi Abdul Hakim that for clause 6 the following be substituted, namely—

"6. Whoever sells, exposes or keeps for sale tobacco, in contravention of section 4, shall be liable to a penalty equal to twice the amount of the license fee payable by him, in addition to the fee payable if not paid by him."

being then put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.	Maiti, Mr. R.
Banerji, Mr. P.	Mittra, Babu Surat Chandra.
Barma, Babu Prombari.	Podder, Mr. Ananda Mohan.
Bose, Mr. Rajendra Kumar.	Quasem, Maulvi Abul.
Chaudhuri, Dr. Jogendra Chandra.	Rahman, Maulvi Azizur.
Chowdhury, Maulvi Abdul Ghani.	Ray, Babu Amulyadhan.
Chowdhury, Maulvi Nurul Absar.	Ray, Mr. Shanti Shekhareswar.
Faziullah, Maulvi Mohammad.	Raut, Babu Haseni.
Hakim, Maulvi Abdul.	Samad, Maulvi Abdus.
Hoque, Kazi Emdadul.	Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Rawabzada Khwaja Mohammad Khan Bahadur.	Khan, Maulvi Abi Abdulla.
Ahmed, Khan Bahadur Maulvi Emadeddin.	Lamb, Mr. T.
Bal, Babu Lalit Kumar.	Maguire, Mr. L. T.
Bal, Rai Sahib Surat Chandra.	Martin, Mr. C. M.
Banerji, Rai Bahadur Keshab Chandra.	Mitter, Mr. S. C.
Barma, Rai Sahib Panchanan.	Mitter, the Hon'ble Sir Brojendra Lal.
Basir Uddin, Khan Sahib Maulvi Mohammad.	Mukherji, Rai Sahib Manamohan.
Basu, Mr. S.	Mukherji, Babu Dhirendra Nath.
Benjamin, Mr. H. D.	Mukherji, Rai Bahadur Satish Chandra.
Blandy, Mr. E. R.	Mukhopadhaya, Rai Sahib Surat Chandra.
Bose, Mr. S. M.	Nag, Rev. B. A.
Chanda, Mr. Apurva Kumar.	Nag, Babu Sub Lal.
Cohen, Mr. D. J.	Nandy, Maharaja Srie Chandra, of Kasimbazar.
Das, Babu Gurupresad.	Nazimuddin, the Hon'ble Khwaja Sir.
Dutt, Mr. S. S.	Raheem, Mr. A.
Dutt, Rai Bahadur Dr. Haridhan.	Ray, Babu Khetter Mohan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.	Ray Chowdhury, Mr. K. G.
Fergusson, Mr. R. N.	Reid, the Hon'ble Mr. R. N.
Ghose, Rai Bahadur Saroshe Kumar.	Roy, the Hon'ble Sir Bijay Prasad Singh.
Gilchrist, Mr. R. R.	Roy, Mr. Saileswar Singh.
Gladding, Mr. B.	Roy, Mr. Sarat Kumar.
Guha, Mr. Profulla Kumar.	Roy Chaudhuri, Babu Hem Chandra.
Haque, the Hon'ble Khan Bahadur M. Azizul.	Sadatullah, Maulvi Mohammad.
Hodge, Mr. J. D. V.	Sahana, Rai Bahadur Satya Kinkar.
Homan, Mr. P. T.	Sen, Rai Sahib Akshoy Kumar.
Hussain, Maulvi Latafat.	Thompson, Mr. W. H.
Kasem, Maulvi Abul.	Townend, Mr. H. P. V.
Khan, Khan Bahadur Maulvi Muazzam Ali.	Walker, Mr. R. L.
	Wilkinson, Mr. M. R.
	Woodhead, the Hon'ble Sir John.

The Ayes being 20 and the Noes 58, the motion was lost.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

The motion of Kazi Emdadul Hoque that in clause 6(*I*), last line, for the words "one hundred rupees" the words "a sum equal to a license fee chargeable under this Act" be substituted being then put a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Prambari.
Basu, Mr. Barendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chaudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Hahim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Maulvi Tamizuddin.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizar.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Nagal.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emadeddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Bai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Bleaby, Mr. E. B.
Bose, Mr. S. M.
Chande, Mr. Aparva Kumar.
Cohen, Mr. D. J.
Das, Babu Barapresad.
Dutt, Mr. G. S.
Dutt, Rai Bahadur Dr. Haridhan.
Faroqui, the Hon'ble Nawab K. B. M., Khan Bahadur.
Ferguson, Mr. S. H.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Goho, Mr. P. B.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Lamb, Mr. T.
Maguire, Mr. L. T.
Martin, Mr. G. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Monomohan.
Mukherji, Babu Dhirendra Nath.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. S.A.
Nag, Babu Suh Lal.
Nundy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Saadatullah, Maulvi Muhammad.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. S.
Woodhead, the Hon'ble Sir John.

The Ayes being 19 and the Noes 53, the motion was lost.

The motion that in clause 6 (*I*), last line, for the words "one hundred rupees" the words "twenty-five rupees" be substituted being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Prambari.
Basu, Mr. Barendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Ahmedzaman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.

Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Nagendra Narayan.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Basu, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. H.
Ross, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Cohen, Mr. D. J.
Das, Babu Guruprosad.
Dutt, Mr. S. S.
Dutt, Rai Bahadur Dr. Haridhan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. N.
Hilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Aziaul.
Hodge, Mr. J. D. V.
Human, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Lamb, Mr. T.
Magaire, Mr. L. T.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Manmohan.
Mukherji, Babu Dhirendra Nath.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Surat Chandra.
Nag, Rev. R. A.
Neg, Babu Sah Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray Chowdhury, K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Surat Kumar.
Sadeqtallah, Maulvi Mohammad.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Abohoy Kumar.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. B. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 23 and the Noes 54, the motion was lost.

The motion that in clause 6 (*1*), last line, for the words "one hundred rupees" the words "fifty rupees" be substituted was put and agreed to.

Mr. P. Banerji's motion that in clause 6 (*1*) last line, for the words "one hundred rupees" the words "ten rupees" be substituted, failed.

Kazi EMDADUL HOQUE: Sir, I beg to move that clause 6 (*2*) be omitted.

Clause 6(*2*) says Sir, that when any person has been convicted under this section the court may direct that he shall pay in addition to the fine imposed upon him the fee payable for the license which he should have obtained under this Act and such sum shall be recoverable as if it were a fine imposed upon him under sub-section (*1*). I want, Sir, the omission of this clause and it is for this reason. The court will be asked to give its judgement upon any case when a person is found selling or exposing for sale or keeping or storing for sale any prohibited quantity of tobacco without any license therefor. That will be the only question before the court who will deal with this case and upon which a decision will be sought. So the Magistrate or whoever,

be the person who deals with it, will have to give his decision on that point only. To be more explicit, the only question before him will be whether any person has committed any infringement of any provision under the Act, that is, whether any person has stored a prohibited quantity of tobacco or exposed it for the purpose of sale or even stored it for the purpose of sale, without a license—that is the only question that will have to be enquired into by the Magistrate or the Judge and he will have to give his judgement or verdict thereon. So he cannot deal with any other matter. The only thing which he is called upon to do is to investigate into that thing only and he ought not or should not go beyond the scope of clause 6 (*1*). Here my objection is that, if the provision of this sub-clause be given effect to, it will mean that the Magistrate will have to determine the amount of the fee that the man will have to pay. That is a different thing altogether, and is a matter of a civil nature, which should not be treated in this way, because it might be made a matter of dispute and the Magistrate may determine the fine or fee to an extent to which the man may have an objection. Suppose the Magistrate may say that the man is in possession of two maunds of tobacco but the man who is hauled up might say that he is in possession of not two maunds but about 38 seers of tobacco, so that under the Act he is not liable to make any payment on account of license fee. Thus the Magistrate might say that he is in possession of two maunds of tobacco and is liable to license fee, the man might contend that he is in possession of less than a maund and under the Act is not liable to such a fee. Now, under the previous clause, it may be said that the Magistrate will have to enquire about the amount in the possession of any particular person for the purpose of penalizing a man under clause (*1*). I beg to submit, however, that for the purpose of penalizing the man the Magistrate might not be strictly accurate. It does not matter whether he makes an over-estimate or an underestimate of the quantity actually in possession for the purpose of inflicting the punishment. The punishment will be there for not complying with the provisions of the law. The man is required to obtain a license, and when he is found without a license he will be penalized. So, the Magistrate in that case is not to make a strictly accurate estimate of the article in possession of the man. It does not affect in the least his judgement in that respect, because the infringement of the law will be taken into consideration and not whether the man possesses a few seers more or less than what he is alleged to possess. Here the quantity is very essential for the purpose of this sub-clause, and it should not rest with the Magistrate before an enquiry is to be made. If the Government really want to recover the amount, which they think they can recover for being in possession of a certain quantity of the article, the right course would be for the Magistrate, or whosoever may be entrusted with this work, to communicate with the authority which has got the right to determine the fee;

and that authority might on receipt of the information of the breach of law committed by a person may issue a notice to him, requiring him to pay down the amount. If the man does not come forward to defend himself, then, of course, the authority concerned in the matter might recover the amount under any law in force for the recovery of public demands. But if the man comes forward and defends himself by saying that he is not at all liable for any fee for obtaining a license, then that man will have the right to defend himself; and he will be given a chance of showing whether he is liable or not to pay any amount on account of the fees. It may also be that, when a person is found in possession of a certain quantity of tobacco, he may not perhaps intend to sell the whole of the quantity in his possession but only a certain portion of it, keeping the rest for his own consumption. So, in such a case the mere possession of a certain quantity of tobacco will not justify the Magistrate or any other authority to compel him to pay the fee according to the scale laid down under the Act. He will be given the fullest opportunity of proving that only such and such quantity out of the total amount in his possession he intends to dispose of, and for that quantity only he is liable to pay the prescribed license fee. If such an opportunity be not given to him, then the person will have no redress and he will be unjustifiably subjected to pay the fee which he otherwise would not be made to pay if he could prove his case before the authority concerned in the matter, who could have exempted him. For these reasons, I submit that Government will not press for the inclusion of this sub-clause (2) in clause 6.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I am afraid that Kazi Emdadul Hoque is labouring under a serious misapprehension. If I have not made a mistake in reading this section, I think the Magistrate, before whom any person is brought up for not taking out a license and selling tobacco, might fine such a person; but if the Magistrate thinks that the person has evaded the payment of the excise license for selling tobacco, he would naturally take that fact into consideration and fine him more than he would have done if he had paid this license fee. Clause (2) would be in his favour, as the Magistrate will fine him only a small amount and then order him to pay the license fee also. The license fee once paid—I presume I am correct; if not, I shall be glad to be corrected—would entitle a person to ply on with his trade for the period for which the license fee is paid, and during that period he will not be liable to be called up again before a Magistrate for selling tobacco. If my friend's proposal is accepted, the result will be that the Magistrate will fine the person, but that person will have to go without a license, and going without a license will make him liable to be subsequently hauled up before another Magistrate for selling tobacco without a license. I, therefore, personally feel that, instead

of helping these poor men, for whom perhaps the mover feels, he would rather be putting them into further trouble. I do not think that my friend has taken that point of view into his consideration, and if he did so he would have been advised otherwise.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I support this amendment, but for very different reasons from those adduced by the mover. Rai Bahadur Dr. Haridhan Dutt would be right in his view if this sub-section were worded differently. It is noticeable that neither in this sub-section nor anywhere else there is any provision for granting a license to the person on payment of this fee which is realized from him by the Magistrate, because the sub-section runs as follows:—

"When any person is convicted under this section, the court may direct that he shall pay, in addition to the fine imposed on him, the fee payable for the license which he should have obtained under this Act and such sum shall be recoverable as if it were a fine imposed on him under sub-section (*1*)."

There is not a word to say that upon such payment he would be entitled to get such a license. Suppose an offence is committed by a man in 1935 and he is convicted in June, 1935, the Magistrate fines him, say, Rs. 50 and realizes Rs. 6 as license fee, the Magistrate cannot order that a license should be granted to that person under the provisions of this law. The excise officer cannot give him a license for this payment made before the Magistrate. On the other hand, if the offence has been committed in 1935 and the man is convicted in 1936 and the Magistrate imposed the fine in 1936, the result of that would be inoffensive, because the license fee which would not have been paid by him in 1935 would be realized in 1936 because the term of the license had already expired. But in the case of an offence committed during the current year, there ought to be a provision for granting a license upon such payment being made. That provision is not in the Bill, and, as there is no amendment to that effect, the only thing we can do is to omit this sub-section altogether. The omission of this sub-section will not harm anybody because you have fixed a maximum fine of Rs. 50. So if a man has committed an offence in 1935 and is convicted in 1936, the Magistrate, instead of fining him Rs. 10 and realizing Rs. 6 as license fee, will perhaps fine him Rs. 16. The purpose of this sub-section will then be served. If, on the other hand, an offence is committed in 1935 and the conviction also takes place in 1935, in that case the Magistrate will impose a fine of, say, Rs. 10. After that the man remains liable to take out a license if he wants to sell tobacco again. That will be a sufficient safeguard, and there is no necessity, therefore, for retaining sub-section 6 (*2*). Its purpose will be served by the other provisions of the Bill. The fine

of Rs. 50 which has been fixed will be adequate for the adjustment of the penalty, and, so far as taking out of the license is concerned, this sub-section 6 (2) does not provide for the granting of a license. That being so, there is no justification, Sir, for the Magistrate realizing his license fee while not providing for the granting of a license. For these reasons, Sir, I support the amendment.

The Hon'ble Sir JOHN WOODHEAD: Sir, I have not been able to follow the arguments of the mover of the amendment; but, I believe, on principle, there can be really no objection, for Dr. Sen Gupta incorporated a similar provision in his amendments.

As regards Dr. Sen Gupta's criticisms, all that I can say is this, clause 6 (2) provides for the recovery of the license fee; and, certainly, Sir, on payment of the license fee a license will be granted. Of that there is no doubt. The whole principle of the Bill is that a person who pays a license fee shall be given a license; a person who pays the license fee automatically gets the license.

Sir, I oppose the amendment.

Kazi Emdadul Hoque's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Maulvi Nural Absar.
Fazlullah, Maulvi Mohammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Maiti, Mr. R.
Qasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Mohammad, Khan Bahadur.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Bazir Uddin, Khan Sahib Maulvi Mohammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chand, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Cohen, Mr. D. J.
Das, Babu Surapramad.
Dutt, Mr. S. S.
Dutt, Rai Bahadur Dr. Haridhan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. N.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. B. V.
Homan, Mr. P. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Alli Abdulla.
Lamb, Mr. T.
Maguire, Mr. L. T.
Martin, Mr. G. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Manomohan.

Mukherji, Babu Dhirendra Nath.
Mukherji, Rai Bahadur Satish Chandr
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nag, Babu Suk Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahoom, Mr. A.
Roy, Babu Khetter Mahan.
Roy Chowdhury, K. C.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Sir Bijay Prasad Singh.
Roy, Mr. Satiseswar Singh.
Roy, Mr. Sarat Kumar.
Roy Chowdhuri, Babu Hem Chandra.
Sandatullah, Maulvi Muhammad.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen, Rai Bahadur Jogesh Chandra.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 17 and the Noes 56, the motion was lost.

The motion that clause 6, as amended, stand part of the Bill was put and agreed to.

Clause 7.

Rai Bahadur SATISH CHANDRA MUKHERJI: I beg to move that in clause 7, lines 3 and 4, for the words "which may extend to one hundred rupees," the words "which shall not be more than double the license fee payable by him" be substituted.

The reason why I move this amendment is to draw the attention of the Hon'ble Member to the fact that the offence in clause 7 is a much lesser offence than the offence under clause 6 and surely the penalty under section 7 cannot stand on the same footing with the penalty under clause 6. Now the House has agreed to reduce the fine from Rs. 100 to Rs. 50 in the case of an offence under section 6. Therefore, I think that in a very simple case like the one contemplated in section 7 (it is merely breaking any of the conditions of the license subject to which the license was granted) justice of the case will be met by the infliction of a penalty which shall not be more than as I have suggested. Such an Act is going to be passed for the first time, and it will take some time for the people to adjust themselves. I think the breaches of the conditions of the license will be very petty and these can be met by the imposition of a fine which I have suggested in my amendment. With these words I move my amendment.

Mr. D. CLADDING: With your permission, Sir, I would like to inform the House that Government propose to accept the amendment which stands in the name of Maulvi Abdul Hakim, proposing that the maximum fine under clause 7 should be "twenty-five rupees" instead of "one hundred rupees."

Kazi EMDADUL HOQUE: I beg to move that in clause 7, lines 3 and 4, for the words "which may extend to one hundred rupees" the words "equal to the amount of the license fee paid by him" be substituted.

This is a modest demand which I think Government will find no difficulty in accepting. I know that Government is in very great need of money and that need has been accentuated by the fact that they had to restore the 5 per cent. cut in pay. But seeing the condition of the poor people in the mufassal, we feel it our duty to do our utmost to press Government to accept our amendments. Now it may be said why is it that we are so very keen about our motion when we know that Government would not accept even our modest demands. It is because we want to show that we do not like that such taxes as are proposed in this Bill should be imposed. It has been very different in the Legislative Assembly—only yesterday they rejected certain demands made by the Government. In the United Provinces also they did the same. The Legislative Assembly there have thrown out the Tobacco Duty Bill to the great joy and rejoicings of the people.

Mr. DEPUTY PRESIDENT: You can speak about that at a later stage. Now please confine your remarks to the specific motion.

Kazi EMDADUL HOQUE: We are opposed to any such Bill being passed by this Council. We have great antipathy against these measures of taxation. You refuse to listen to the representatives of the people of the rural areas and the utmost we can do is to call a division on each and every motion just to show that the Government is passing this Bill in the teeth of all opposition.

Mr. DEPUTY PRESIDENT: Please speak on your amendment.

Kazi EMDADUL HOQUE: So I say that we must do our utmost to give some relief to the cultivators whom we represent. If we fail, the cultivators will say that we have tried, we have fought for them, but because the Government is so very obdurate and unmindful of their interest that they have not accepted even the modest demands made by us their representatives here. Thus there will be discontent in the country and Government would feel the consequence to their cost. Surely, when people do not get food and medicine and are dying in hundreds from cholera, kala-azar and so forth without proper treatment for want of funds that Government is going to harass them all the more for getting more money out of them.

Mr. DEPUTY PRESIDENT: What about your amendment?

Kazi EMDADUL HOQUE: I therefore propose that if any person break any of the conditions under which a license has been granted he may be held responsible for payment of an amount equal to the

amount of his license fee, but should not be burdened with the license fee to boot. This is a very modest demand, and I hope Government will accept it. With these few words I move my amendment.

Mr. P. BANERJI: I beg to move that in clause 7, last line, for the words "one hundred rupees" the words "ten rupees" be substituted.

Sir, the object of my moving this amendment is to show that we are opposing the Bill on principle. If in the previous clause Government could concede to a reduction of the exorbitant fine from Rs. 100 to Rs. 50, I fail to understand why in this particular case the Hon'ble Member should not accept at least the suggestion put forward by my friend, Rai Bahadur Satish Chandra Mukherji, in his amendment No. 113 which says that the fine shall not be more than double the license fee payable under this Act. I think this is a very reasonable demand. In this connection I would again refer the Hon'ble Member to the Calcutta Municipal Act on principle. The Hon'ble Member himself made a reference to this Act, and I shall pay him in his own coin. In the Calcutta Municipal Act there is no provision for the imposition of such an exorbitant fine for a breach of any of the conditions of a license. Breach of conditions of license is certainly not an evasion of the law. Further, we do not know what those conditions will be, and it will be up to any excise officer to find fault with these poor and illiterate people who deal in tobacco either wholesale or retail. One point that has been suggested by Kazi Emdadul Hoque is that the cultivators will be very hard hit. The Hon'ble Member will probably say that the cultivators will not be hard hit, because they will be exempted. But he should remember that my friend Mr. Hoque did not refer to the cultivators of tobacco only but to cultivators generally, that is to say, the poor people who cannot make two ends meet on account of the economic depression. These people in many cases in their spare time take to the business of selling tobacco. Therefore, it is quite possible that there may be breach of conditions of license on the part of these people. But if the officers who are set up to find fault with these people maintain that ignorance of law is no plea for evading the penalty, you can well imagine the nature of trouble and hardship that these poor people will be subjected to. In that view I consider that the Hon'ble Member can very well accept at least amendment No. 113, which is very reasonable, if not mine. I find that the Hon'ble Member in charge or for the matter of that the Hon'ble Members of Government are very much anxious to get this Bill passed into law as early as possible, and if possible to-night. I submit, Sir, that this can only be achieved if the suggestions that have been put forward from this side of the House are accepted by Government. I do not want that they should be accepted wholly, but I think a reasonable compromise can easily be arrived at and we can then finish with

this taxation proposal to-night. But there is no sign of that attitude visible on the other side of the House. On the other hand, we find that whenever we move any motion and try to press our constitutional rights, we are laughed at particularly by our friends, the *zemindars*, who are incapable of disproving the charges levelled against them. Sir, my object in referring to the *zemindars* is to point out to you that they are not aware of the actual state of affairs in the countryside and the reasons which have led to the present economic depression in the country. Therefore, these poor people are already very much hard hit on account of the action of, if not the *zemindars* but certainly their *gomasthas*. That being the case, it is very difficult for these people to make two ends meet, and that is the experience of the hon'ble members to my left. It is not my suggestion, but I simply want to substantiate my argument with that. Therefore, if the Hon'ble Member does not see his way to accept at least the amendment that has been moved by one of the Rai Bahadurs, it would be really a very great hardship on those people whom we represent in this Council.

With these words I commend my amendment to the acceptance of the House.

Maulvi ABDUL HAKIM: I formally move that in clause 7, last line, for the words "one hundred rupees" the words "twenty-five rupees" be substituted.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I want to make my position very clear to the Government. I have ceased to look upon this Bill as a measure purely for taxation. Looking at this Bill from that point of view that there is something else behind it, I am inclined to examine every clause with a certain amount of suspicion. We find in this Bill a clause imposing such a heavy fine for the mere breach of certain conditions that may be prescribed in connection with the issue of licenses. If it is purely for the purpose of collecting those Rs. 3 or Rs. 6 from these shop-keepers and hawkers or retailers or wholesale dealers, why is the Government so very drastic in their suggestion as regards the punishment which they want to impose for a breach of the conditions? What possible conditions can there be in connection with the license? The Hon'ble Member in charge of the Bill up to this time has not given us any idea as to what those conditions are going to be. I think he ought to have placed before the House the ideas of Government on this point. In the absence of any such thing I am inclined to think that the Government of Bengal or at any rate the Hon'ble Member in charge of the Bill has himself no idea as regards these conditions. Sir, it is very difficult for one to come to any decision in a matter like this in the absence of definite statements on behalf of the Government. Sir, we do not know what the conditions are for the breach of which Government want to impose this heavy fine of Rs. 100,

I do not know if it is the intention of the Government of Bengal to make it one of the conditions that one must not belong to any political institution or that one shall have to make a declaration, as has been done in connection with appointments in the Corporation of Calcutta, or that there may be very harmless conditions. I hope the Hon'ble Member in charge of the Bill will make this point clear when he gets an opportunity to offer a reply. His position is rather awkward. I believe he is not in charge of the department which will administer the fund that may be raised by this taxation. We find that the administrative part is going to be handed over to the Excise Department. At least that is the impression that I have gained from discussions.

Mr. DEPUTY PRESIDENT: Are you coming to the amount of the fine imposed under clause 7?

Mr. SHANTI SHEKHARESWAR RAY: I am opposing clause 7, Sir, and I am just trying to ascertain the views of Government as they have not been placed before the House.

Mr. DEPUTY PRESIDENT: I hope that you also bear in mind the fact that Government have accepted an amendment suggesting that the maximum punishment should be Rs. 50.

Mr. SHANTI SHEKHARESWAR RAY: Well, Sir, Government may have accepted that. But what I want to know is why Government have not placed before the House the conditions under which the license is to be granted. There is no point in their reducing the punishment to twenty-five or fifty rupees. My main object is to know the conditions under which the license will be granted. The conditions may be harmless as in the case of the license issued for keeping a wireless set, over which there is hardly any trouble. That license is intended to raise revenue and to raise money by taxation, and people understand that. I could have understood the position of the Hon'ble Member if at the beginning he said, "Well, you see there will be no hardship whatever in getting a license: you can get one from any of the post offices and the conditions will be very harmless and there is no likelihood of any intentional breach of those conditions on our part". That is a position, Sir, which I could have understood and that would have been a fair presentation of the Government's case. But Government in their wisdom have brought forward a measure like this and they say, "We want some money to justify our attitude before the Government of India and the Legislative Assembly." But all this while they keep us in the dark. They do not tell us who is going to issue these licenses; they do not say under what conditions the licenses are to be issued and they want the vote of the Council in support of such a measure. Unless we are totally subservient to Government, we

cannot be expected to vote in their favour under such circumstances. I am afraid, Sir, it is perhaps time for you to adjourn for prayer because I am under the impression that that is the reason why there are only a few of our Moslem friends in the House now.

Mr. DEPUTY PRESIDENT: No, Mr. Ray you go on, and I hope you will finish soon.

Mr. SHANTI SHEKHARESWAR RAY: As I was going to say, Sir, Government have themselves called upon them this opposition and this criticism by their own conduct. I am of opinion that Government should not leave these things so very vague. It is also very difficult for one to follow the attitude of Government. To my mind they are changing from day to day and like Mallinath the Hon'ble Sir John Woodhead is offering explanations now and then on the implications of the clauses that had been passed. Our difficulty is that in the absence of definite provisions in the Bill we are unable to fix the implications of this measure. Just now, Sir, in the course of a speech the Hon'ble Member was pleased to say that a man had only to ask for a license and automatically it would be issued on payment. I looked up the Bill, Sir, but I do not find anywhere any such provision. It is nowhere stated in the Bill that a license will be issued automatically, the moment one hands over the license fee. If Government were in a position to state that definitely, we should have been prepared to modify our attitude to a certain extent, but what I fear is that behind this Bill and behind this apparent attempt to raise a small tax there is something sinister brewing, and in view of this impression the only course on my part is to oppose the Bill tooth and nail. With these words I oppose the clause as it stands.

(The Council was, at this stage, adjourned for 15 minutes.)

(After Adjournment.)

The Hon'ble Sir JOHN WOODHEAD: Sir, I do not intend to occupy the time of the House for more than a moment and I do not intend to say more than this, that I am prepared to accept amendment No. 119. I might also point out that the change made in the pitch of the maximum fine under clause 6 of the Bill will involve a consequential change in clause 8. That means that I shall also accept amendment No. 126. For the present, Sir, I oppose all amendments except No. 119.

Maulvi Abdul Hakim's motion that in clause 7, last line, for the words "one hundred rupees" the words "twenty-five rupees" be substituted was put and agreed to.

The other motions failed

The motion that clause 7, as amended, stand part of the Bill being then put a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chatterjee, Mr. B. C.
Cohen, Mr. D. J.
Das, Babu Ramaprosad.
Dutt, Mr. S. C.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Gilchrist, Mr. S. S.
Gladding, Mr. D.
Guha, Mr. P. S.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Human, Mr. P. T.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Manzzam Ali.
Khan, Maulvi Abi Abdulla.
Maguire, Mr. L. T.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal
Mittra, Babu Sarat Chandra.
Mukherji, Rai Sahib Manamohan.
Mukherji, Babu Dhirendra Nath.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. S.
Reid, the Hon'ble Mr. R. R.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Mr. Satiseswar Singh.
Ray, Mr. Sarat Kumar.
Saadatullah, Maulvi Mahammad.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshay Kumar.
Townend, Mr. H. P. V.
Walker, Mr. S. L.
Wilkinson, Mr. H. S.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Prembari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.

The Ayes being 49 and the Noes 14, the motion was carried.

Clause 8.

Mr. DEPUTY PRESIDENT: The question before the House is that clause 8 stand part of the Bill.

If there is no objection, I should like to take up amendments Nos. 121-126 together and to have a general discussion on them. I shall, however, put the amendments to vote separately.

Maulvi ABDUL HAKIM: Sir, I beg to move that in clause 8 (*1*), lines 5 to 7, for the words "not exceeding one hundred rupees by way

of composition for such offences," the words "equal to twice the amount of the license fee payable by him, in addition to the fee payable if not paid by him" be substituted.

Sir, in order to make my amendment clear I may read the clause as it will stand if my proposed amendment is accepted. It will read thus: "The Collector, or any excise officer not below the rank of Superintendent of Excise, especially empowered by the Local Government in this behalf, may accept from any person who is reasonably suspected of having committed any offence punishable under this Act, payment of a sum of money equal to twice the amount of the license fee payable by him, in addition to the fee payable if not paid by him."

Sir, I have exhausted all the arguments in my stock in my previous speeches.

Mr. DEPUTY PRESIDENT: In that case, the best thing for you would be to move it formally and make no speech. (Laughter.)

Maulvi ABDUL HAKIM: However, I shall only say a few words which I have not said before. (Laughter and cries of "You have still more arguments.") Anyone who happens to read this clause, must come to the conclusion that Government are so much greedy of money that they have provided for the heavy payment of Rs. 100 even in case of compromise. I would like to submit that a tobacco-seller, who is suspected of having committed an offence, may have in his possession a certain quantity of tobacco for which he intends to take a license few days after; but in the meantime the man is arrested by an officer of the Excise Department. Sir, I am at a loss to understand how such a large amount as Rs. 100 can be realized from such a person, who is only suspected of having committed an offence according to the supposition of an excise officer but who is not really guilty. It is on account of the heavy penalty that has been provided for in this clause even in the case of a compromise, that I have proposed this amendment, and I hope the Hon'ble Member in charge will be pleased to accept it. With these few words, Sir, I commend my amendment to the acceptance of the House.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 8 (*1*), line 6, for the words "one hundred rupees," the words "the amount which is payable as license fee under this Act" be substituted.

Sir, this is the third time that I have brought up this matter before this Council, and I hope Government will consider it deliberately and patiently and see their way to accept this modest demand of mine. (Laughter.) The first occasion on which I moved a similar amendment is in the case of a person who is found selling or exposing for sale or keeping in stock——

Mr. DEPUTY PRESIDENT: Kazi Sahib, will you please restrict your remarks to the amendment now under discussion?

Kazi EMDADUL HOQUE: Yes, Sir, but in order to develop my arguments I shall have to refer to the former amendments.

Mr. DEPUTY PRESIDENT: But be as brief as possible.

Kazi EMDADUL HAQUE: Then, Sir, I moved similar amendments in the case of persons who might be found committing a breach of any condition which might be imposed in granting the license. So, I think that that is a lighter offence than the former. As the former was not accepted, I moved the one which, I considered, was in respect of a lighter offence. There, too, I failed to have justice on my side. This is the last attempt that I make, and in this case I find that Government are prepared to be somewhat lenient by accepting composition by way of compromise, by realizing a certain amount. As Government have already shown a tendency to show some consideration to a person who might be found guilty of the offences mentioned here, I think that Government might go a step further and condescend to grant a little more concession by accepting this modest amendment of mine. Therefore, Sir, with all humility and earnestness, I appeal to the Hon'ble Member in charge to consider this amendment deliberately and patiently and to see his way to accept it. With these observations, I move my amendment for the acceptance of the House.

Mr. P. BANERJI: Sir, I beg to move that in clause 8 (*1*), line 6, for the words "one hundred rupees," the words "ten rupees" be substituted.

Sir, in doing so I am not at all surprised to find that the Government of Bengal have after all to take recourse to the realization of money in this way. Sir, it is a well-known fact that Government are at present bankrupt. They need money, and they want to raise money by taxation. We find, Sir, in this Bill that they have not only to be satisfied by taxing in order to raise the expected amount, but indirectly they want to raise money several times more than what they profess to do by prescribing apparently a small scale of fees, viz., Rs. 6, Rs. 3 and Re. 1, in three different cases. The funniest part of the whole thing is that, so far as the Government's position is concerned, Government have detained certain people on suspicion. The argument in that case was that unless certain people were detained the lives of Government officials were in danger. Here, Sir, I do not find that any such danger exists. I, therefore, fail to see how Government can maintain their position in regard to a person who is only suspected of having committed any offence punishable under this Act. In this case what

happens? A Collector or any excise officer, not below the rank of a Superintendent of Excise, especially empowered by the Local Government in this behalf, may accept from any person who is reasonably suspected of having committed any offence. Sir, might I enquire of the Hon'ble Member how the Collector or a responsible officer of the rank of a Superintendent of Excise will come to their finding that a person is reasonably suspected of having committed an offience? Will they make enquiries themselves or will they depend entirely on the reports of their underlings, who will, naturally, make enquiries in the matter? The matter will entirely depend on the suspicion entertained by an excise peon, as is done in another department—as has been pointed out by the Leader of the Opposition that the authorities depend upon the reports of *chaukidars*. I repeat, Sir, that the whole matter will entirely depend on the report of the excise peon, which will pass through several officers until it reaches the highest authority, *i.e.*, the Superintendent of Excise or the Collector. That report goes from officer to officer till it reaches the Superintendent of Excise or the Collector and on that report they find that there is reason to suspect that so and so person is reasonably suspected of having committed an offence under this Act. The only implication of this clause is that Government want money. So naturally they will not think of any other thing except that they have got to realise from the poor fellow at least Rs. 100. Now it will be contended from the Government side that a sum not exceeding Rs. 100 by way of compromise will be demanded from him; it may be Re. 1. But our experience is that the smaller fine is not actually realised. It is the natural desire of these underlings to realise as much as they can. The Collector and the Superintendent of Excise do help the Government in its distress and following that implication of the law there will be an attempt on their part to compound the case. It is said that they might compound the case even at a lesser amount than Rs. 100. There I have the strongest possible objection. The result would be that in many cases the amount that is actually realised is much more than the people concerned can afford to pay. Even the Corporation here acts in a similar way. If the Hon'ble Member will be prepared to make enquiries he will find in how many cases there have been recommendations to the effect that such and such a person is not in a position to pay, the business is dull and he cannot afford to pay much. The Hon'ble Minister might also know because he was connected with the Corporation for a pretty long time. He knows what is done in the departments for the realisation of the demand. Here is the greatest loophole and this loophole is that they may compromise the case for Rs. 5 and say here is the law and under that law I can realise from you Rs. 100.

Mr. DEPUTY PRESIDENT: Mr. Banerji, are you going to be long?

Mr. P. BANERJI: Yes.

Mr. DEPUTY PRESIDENT: If there is no objection I would like to dispose of this amendment.

Mr. P. BANERJI: May I submit that I was unmindful of the time until you reminded me of it. Sir, are you going to suggest certain time by which we must finish?

Mr. DEPUTY PRESIDENT: If the House does not want it, I shall adjourn.

Mr. SHANTI SHEKHARESWAR RAY: It is for the Chair to decide whether to adjourn the House or not.

Mr. DEPUTY PRESIDENT: That does not prevent the Chair from consulting the convenience of the House.

Mr. SHANTI SHEKHARESWAR RAY: In that case I beg to point out that the voice of the majority should not be heard but the voice of any individual member.

Mr. DEPUTY PRESIDENT: As a large number of members do not want to continue the debate, I adjourn the House.

Adjournment.

The Council was then adjourned till 3 p.m. on Friday, the 5th April, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 5th April, 1935, at 3 p.m.

Present:

Mr. Deputy President (Mr. RAZAUR RAHMAN KHAN, in the absence of the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 95 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Admission of patients into Medical College Hospitals.

*106. **Mr. C. C. COOPER:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether any, and if so what, action has been taken by Government with reference to the points which were raised in this Council during the recent discussions on the Medical Budget regarding the method of admission of patients into the Medical College Hospitals?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): Since the debate took place special enquiries have been made into this matter. There are altogether 698 beds in the Medical College group of hospitals. These are divided into (1) paying beds and (2) non-paying beds. The paying beds consist of 50 cabins, 11 cottages and 24 beds in the Eye Hospital for which scheduled charges are levied. The rest of the beds are all non-paying.

2. At present the procedure for admission is as follows:—

Patients seeking admission into the hospitals are examined at the out-door departments and in the emergency rooms. If considered fit cases they are admitted into the hospital as accommodation becomes available and the urgency of the case demands. Acute and moribund cases are always admitted. Even if there are no vacant beds they are taken in as extra cases. A similar procedure is followed with regard to accident cases.

Patients seeking admission generally come to the Medical College Hospital in one of the following ways:—

(1) Patients brought by ambulance.

(2) Patients coming in unattended or attended by relations or friends.

(3) Patients coming with letters of recommendation from independent medical practitioners who consider them fit cases for hospital treatment.

(4) Patients coming with letters of recommendation from respectable gentlemen, Government officials, public men, priests, etc.

(5) Patients coming with letters of recommendation from the Visiting Staff who give such letters to cases which they consider suitable for hospital treatment or for teaching purposes.

(6) Patients coming with letters of recommendation from mercantile firms.

(7) Patients recommended by the Presidency Surgeons for admission for the purpose of investigation into the nature of their illness.

(8) Patients coming with letters of recommendation from other hospitals.

(9) Cases referred by Government for treatment.

In every case, admission is made by the Resident Medical Officer, after carefully considering the suitability of the case and taking into consideration the accommodation available. In case of any doubt or difficulty he makes a reference to the Visiting Surgeon or Physician in whose ward the patient is proposed to be admitted or the Superintendent of the Hospital who resides on the spot and is always available.

There are four Resident Medical Officers who are specially selected for these appointments from the members of the Bengal Medical Service.

In regard to cases which cannot be admitted on the day of their attendance owing to lack of beds but are considered suitable for admission, the fact is noted on the patients' tickets and they (or their friends) are advised to call daily and are admitted in the order of urgency as accommodation becomes available.

The rush for admission during 1934 was so great that extra beds had to be provided throughout the year.

3. As to the criticism that well-to-do people are often admitted into non-paying beds, it has been already explained that patients seeking admission to the free beds resort in the first instance to the Outdoor and Casualty Departments. Out of these the cases most deserving

admission are taken into the hospital. It is not possible to discriminate here on the ground of the circumstances of the patients.

4. As regards recommendations from the Visiting Staff, the number of such cases is very small. In actual fact it did not exceed 4·5 per cent. of the total admissions in January, 1935. It was not possible to collect figures for a longer period within this short time. Persons so recommended have to wait their turn like other patients and the recommendations, in themselves, do not give them any right of admission or of priority. Admission in all such cases, too, is made in consideration of the nature of the case by the Resident Surgeon or Physician who is debarred from private practice. A statement showing the total number of admissions and those with letters from the Visiting Staff is laid on the table.

5. The complaints arise primarily from insufficiency in the number of both paying and non-paying beds, the demand for admission of deserving cases into both being always far in excess of the accommodation actually available. Another factor which renders the situation a difficult one is the absence of Convalescent Home and infirmary in this province, owing to which many patients who should have gone to such an institution have to be kept on in the hospital for long periods.

6. As regards the suggestions for notifying the number of vacant beds, such a procedure would serve no useful purpose as beds get filled up very rapidly and there can be no guarantee of any being available if a patient sought admission as a result of such notification.

7. While it is thus clear that the difficulty primarily arises from the shortage of accommodation, Government are anxious that every possible step should be taken to eliminate all just causes for grievance on the part of the public, and the whole question is being carefully considered with a view to determining what improvements can be made in the matter of admission.

Statement referred to in reply to starred question No. 106(4) regarding admission of patients in January, 1935.

I—MEDICAL COLLEGE HOSPITALS.

(SURGICAL SIDE.)

Total admissions in January, 1935—395.

Number admitted on recommendations of the Visiting Surgeons—4.

(Most of these four cases were urgent and would have been admitted even without any letter.)

II—MEDICAL COLLEGE HOSPITALS.

(MEDICAL SIDE.)

January, 1935, total admissions—232.

Number of admissions with letters from Visiting Staff—5.

(All these five cases were urgent and important and would have been admitted in any case.)

III—EDEN HOSPITALS.

Total number of admissions in the hospitals in January, 1935—288.

Admissions with letters from Visiting Staff—45.

(The 45 cases were mostly patients who would not have gone to the outdoor for preliminary examination, and they were all interesting and urgent cases and would have been admitted even without the letters. There were no patients waiting. No patient waits for more than a week.)

IV—EYE HOSPITAL.

Admissions in January, 1935—296.

No letters from the Visiting Staff.

The total percentage of patients admitted on letters of recommendation from the Visiting Staff is 4·5 in January, 1935.

Mr. S. M. BOSE: With reference to paragraph 5 of the answer, will the Hon'ble Minister be pleased to state whether he enquired into the complaints made here that some medical men in charge of the hospitals earned money by admitting patients?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, and there was no ground for such allegations.

Mr. S. M. BOSE: With reference to paragraph 3 of the answer, will the Hon'ble Minister be pleased to consider the suggestions that such well-to-do people should be asked to pay?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That would mean that non-paying beds would have to be made paying.

Maulvi TAMIZUDDIN KHAN: With reference to the answer that the Hon'ble Minister has just now given to the supplementary question that an enquiry has been made regarding the allegations about doctors making some money by getting patients admitted into the hospitals, will the Hon'ble Minister be pleased to state what kind of enquiry was held, and who held the enquiry?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The enquiry was held by the Surgeon-General, the Principal of the Medical College and myself by putting questions to the professors concerned, and it was ascertained that there was absolutely no foundation of such allegations.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state if any members of the public were examined, and particularly those members of this House, namely, Rai Bahadur Jogesh Chandra Sen and others, who said that they had personal experience in this matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I did request the members making such allegations to come forward with specific cases, but they refused to do so. In the circumstances, Government considered it unnecessary to pursue that point any further.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state when he asked them to come forward with specific cases?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I did so from my place here in this House and also personally.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state the names of the members who were personally requested to come forward?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I requested those members who made the allegations. As far as I can remember now, I requested Rai Bahadur Jogesh Chandra Sen and Mr. P. Banerji.

Rai Bahadur KESHAB CHANDRA BANERJI: Is the Hon'ble Minister aware of the fact that admissions of patients had been refused even when extra beds were available?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No; I think there was no such case.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state to which class of patients preference is generally given—I mean the ways enumerated in answer 2 regarding admission of patients.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Preference is not given to a particular class of patients, but admissions are made according to the urgency and nature of the case.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Minister be pleased to state whether any patients recommended by the visiting surgeons were ever refused admission?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, they had to await their turn with other patients, and they were admitted only according to the urgency and the nature of their cases.

Babu Hem CHANDRA ROY CHOUDHURI: Sir, my question was whether any patients were refused admission who were recommended by the visiting surgeons?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Patients, whether recommended by visiting surgeons or not, were admitted according to the urgency and nature of their case, and that means that admissions were certainly refused to some of the cases recommended by visiting staff.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Minister be pleased to state the number of patients refused admission in January, 1935?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice of the question.

Mr. P. BANERJI: Will the Hon'ble Minister be pleased to state whether or not it is a fact that he informed me of the date or wrote to me requesting me to be present at the enquiry to give my evidence?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it was not a public enquiry and I did not consider it necessary to ask the hon'ble member to be present there, but I did make a personal request here to give me specific instances.

Mr. P. BANERJI: May I explain the position, Sir?

Mr. DEPUTY PRESIDENT: You cannot discuss the question; you can simply put supplementary questions.

Mr. P. BANERJI: Can the Hon'ble Minister contradict the statement that the staff of the Medical College are not free from corruption?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I shall not simply contradict that statement, but I contradict it with all the emphasis I command.

Maulvi SYED MAJID BAKSH: In answer to the supplementary question of Mr. Roy Choudhuri, the Hon'ble Minister said that the recommendations of the visiting surgeons were refused in certain cases; will the Hon'ble Minister kindly inform us whether such cases were refused when beds were vacant?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Maulvi SYED MAJID BAKSH: Am I to take it then that they were not admitted because beds were not vacant?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Such cases were admitted according to the urgency and nature of them. Suppose one case is recommended by a visiting surgeon; in the meantime if a case which is considered to be more urgent comes for admission, that case is given preference, and the case recommended by the visiting surgeon is not admitted.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Bharat Stree Siksha Sadan.

82. Babu LALIT KUMAR BAL: (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that there is a high English school for girls in Calcutta under the name of Bharat Stree Sikha Sadan; and

(*ii*) that most of the teaching staff of the said school are males?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of urging upon the school authorities the appointment of female teachers in place of the male ones?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Khan Bahadur M. Azizul Haque): (*a*)(*i*) As the result of this question Government have become aware of the existence of this school.

(*ii*) Yes.

(*b*) No: the school is recognised neither by the University nor by Government.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether any register is maintained by the Education Department of such unrecognised schools?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: No, Sir. It is not maintained, neither would it be possible to maintain any.

Expenditure of the motor vehicles tax grant by the Hooghly District Board.

63. Dr. NARESH CHANDRA SEN GUPTA: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that out of Rs. 55,165 allotted to the Hooghly District Board out of the motor vehicles tax about 25 per cent. was spent in the Arambagh subdivision;

(*ii*) that the bulk of the balance was spent on improvements of selected roads in Serampore and Hooghly;

(*iii*) that nothing was spent on the old Benares Road or on roads like the Chanditala-Kristorampur Road *viâ* Janai; and

(*iv*) that the Chanditala-Kristorampur Road has a heavy motor traffic?

(*b*) Have the Government received reports that the District Board of Hooghly has fairly considered the claims of all the localities in distributing the proceeds of the tax?

(*c*) If the answer to (*b*) is in the negative, are the Government proposing to impose any conditions before making the next year's allotment out of the tax, in favour of the neglected areas?

(*d*) Do the Government propose to increase the allotment to the Hooghly District Board next year?

(*e*) Is the Hon'ble Minister aware that the Hooghly district has four important provincial roads and that there is very heavy motor traffic over a large part of the district?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) Out of motor vehicles tax grant of Rs. 55,165 allotted to the Hooghly District Board in 1933-34, a sum of Rs. 43,176 only was spent by the board up to 27th March, 1935. Of this, Rs. 6,358 or about 15 per cent. was spent in the Arambagh subdivision.

(*ii*) The balance, viz., Rs. 36,818, was spent on roads in the Sadar and Serampore subdivisions.

(*iii*) Rs. 6,089 was spent on the old Benares Road and Rs. 481 on the Chanditala-Kristorampur Road *viâ* Janai.

(*iv*) It is reported by the District Magistrate that the motor traffic on the Chanditala-Kristorampur Road is less heavy than on the other motorable roads in the district.

(*b*) Government are informed that the importance and utility of the roads were duly considered by the district board before distributing the motor vehicles tax grant.

(*c*) Does not arise.

(*d*) Out of the amount available for distribution to the districts in each year out of the proceeds of the motor vehicles tax, contributions are made to the district boards on a rateable basis in proportion to the amount of motor vehicles tax collected in each district and the average expenditure by each district board on metalled and unmetalled roads.

(*e*) There is only one provincial road, viz., the Grand Trunk Road, in the district of Hooghly and it is reported that there is increasingly heavy motor traffic on it and on its feeder roads.

Land Mortgage Banks.

64. SETH HUNUMAN PROSAD PODDAR: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*i*) how many Co-operative Land Mortgage Banks are now actively working in the province;

(*ii*) the working capital of each of these banks;

(*iii*) the number of people benefited by them on an average per year?

(*b*) Is it not a fact that Co-operative Land Mortgage Banking has made very little progress in this province?

(*c*) If the answer to (*b*) is in the affirmative, what are the reasons for such inadequate progress?

(*d*) Is the Hon'ble Minister aware that of all the provinces in India, the Madras Presidency has made the most commendable headway in Land Mortgage Banking?

(*e*) If the answer to (*d*) is in the affirmative, are the Government considering the desirability of running their Co-operative Department in this particular following the example of Madras?

(*f*) Have the Government any definite scheme for the starting of Land Mortgage Banks in the province?

(*g*) Have the Government any intention of starting in the immediate future an apex Land Mortgage Bank to finance and guide the primary Land Mortgage Banks on the lines of the Madras Central Land Mortgage Banks?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*)(*i*) Out of 5 Land Mortgage Banks organised during the year, 4 have begun work.

(*ii*) The working capital of each bank is proposed to be Rs. 2½ lakhs.

(*iii*) The banks have not yet worked for a full year.

(*b*) The scheme of Co-operative Land Mortgage Bank has been given effect to in this province only during the past year and whatever progress was possible during this short time has been made.

(*c*) Does not arise.

(*d*) In the Madras Presidency there are more Land Mortgage Banks working than in any other province in India.

(*e*) The Madras scheme was fully examined in formulating the Land Mortgage scheme for this province.

(*f*) Yes.

(*g*) The Land Mortgage Banks in this province have been started on an experimental basis. If they are found to work satisfactorily, the question of federating them into a Central Land Mortgage Bank will receive consideration.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state for how many years have these banks been working in the Presidency of Madras, and how many such banks are there in Madras?

Mr. J. D. V. HODGE: The banks in Madras began to function in 1925. As regards the number of banks functioning in Madras, I am afraid I must ask for notice.

Drugs adulteration.

65. Maharaja SRIS CHANDRA NANDY, of Kasimbazar: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that a lot of spurious and adulterated drugs are being passed off as British Pharmacopœial preparations by unscrupulous dealers; and

(*ii*) that the Calcutta Corporation has so far failed to prevent this menace so far as it obtains in Calcutta?

(*b*) Is the Hon'ble Minister also aware that in some cases the dealers in spurious drugs are indirectly assisted in their nefarious game by careless analytical reports by the Government Test House, Alipore?

(*c*) Has the attention of the Hon'ble Minister been drawn to the judgment of the learned Presidency and Municipal Magistrate in the Corporation of Calcutta *versus* N. P. Dutt & Sons, case under section 406 of the Calcutta Municipal Act, in which the dealer was convicted and tried for substituting Potassium Nitrate (with a trace of Chlorides) for a packet which they tried to pass of as Potas Citras B. P.?

(*d*) Has the attention of the Hon'ble Minister been drawn also to the severe strictures passed by the learned Magistrate on the conduct of the Government Test House analyst who, in the opinion of the Court "deliberately and unblushingly perjured himself" in tendering evidence on the question of drug adulteration, and that the Test certificate granted by him was not worth the paper on which it was written?

(*e*) If the answer to any or all of (*a*) to (*d*) is in the affirmative, will the Hon'ble Minister be pleased to state what action has been taken so far, so as to make the Test certificates granted by the Government Test House more reliable?

(*f*) Are the Government considering the desirability of undertaking stringent measures so as to prevent the manufacture and sale of spurious and adulterated drugs in the province so as to remove effectively a positive menace to public health?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) Government have no definite information, but it is believed that the abuse exists.

(*ii*) A statement is laid on the table showing the total number of samples of drugs received by the Calcutta Corporation during the years 1931, 1932, 1933 and 1934. The total number of samples of drugs

found to be adulterated was 78. Prosecutions were instituted in all these 78 cases, of which 72 ended in conviction, 2 were struck off, 2 were withdrawn under the orders of the Chief Executive Officer and 2 are still pending. The total amount of fines realised was Rs. 2,823.

(*b*) Government have no information.

(*c*) and (*d*) Yes.

(*e*) The Alipore Test House is under the control of the Government of India. Their attention is being invited to the remarks of the trying Magistrate in his judgment.

(*f*) The matter is under examination.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether Government propose to make an enquiry with a view to stopping the abuse?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: We have already made an enquiry as is mentioned in the reply.

Mr. DEPUTY PRESIDENT: Gentlemen, I am to announce that His Excellency the Governor has been pleased to fix to-morrow at 10-30 a.m. for a sitting of the Council for further discussion of the Bengal Tobacco (Sales Licensing) Bill, 1935, provided the proceedings in connection with the said Bill be not concluded to-day. If the said Bill is disposed of to-day, there will be no sitting to-morrow. For the discussion of the other Bills which are awaiting disposal, they will be taken up on Monday.

Mr. NARENDRA KUMAR BASU: That's a mere threat.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Tobacco (Sales Licensing) Bill, 1935.

(The discussion on the Tobacco Bill, 1935, was then resumed.)

Mr. P. BANERJI: Sir, last night I was discussing as to how people are punished by Government on mere suspicion. I was referring then to the case of the detenus: on the mere suspicion that these men, if let loose, will become a source of danger and may cause the loss of

many lives, they are being detained. In this particular case also, as I explained yesterday, you are going to administer the Act on the basis of mere suspicion. Though the provision is that the Collector, the Commissioner of Excise or the Excise Officer not below the rank of Superintendent of Excise, as specially empowered by the Government, can punish the offenders, in effect the Act will not be administered by those officers but by the underlings of the Excise Department. As a result, there must be oppression. Then there is a great loophole in the Bill, namely, that when a person is suspected to have committed any offence punishable under the Act, he may be fined and that fine may extend up to Rs. 100. Had this amount been an insignificant one, there would have been lesser chance of corruption, but in the present case, there are chances of corruption. Sir, I do not maintain that all the officers of the Excise Department are dishonest. But, as the Hon'ble Member must admit, there are persons who are dishonest in the Department. If there are some such persons, why should there be this loophole. You know, Sir, human psychology being what it is, when there is a loophole, I doubt whether these persons would be able to resist the temptation.

Now, Sir, I crave your indulgence to digress a little from the point at issue by narrating a story. It has become a craze of the House now-a-days to narrate stories, and you will not deny me the pleasure of narrating one. In ancient times, in a certain Indian kingdom, there was a person working in the Excise Department. He was reported to be very corrupt and dishonest, and it became very difficult to correct him. When complaints after complaints reached the ears of the king, he commanded, by way of punishment, that that officer should sit in the winter by the riverside and count the waves. But, Sir, a man who can play his cards well, can play as well with blank cards. Let us also see here how the officer thrived in his business. The first day he did his duty, but on the next day he devised something. He asked all the boatmen who used to ply their boats to stop and warned them that he had his order from the king that no boat should pass because it would disturb the counting of waves. The result can be better imagined than described. Owners of boats laden full with merchandise could not pass; so, they put money into the officer's pocket. In this way the man earned a lot of money and built a palace on the river bank. Then, one day the king enquired about the man, and was told by his Minister that even there the man had managed to earn a lot of money and had built a palace and was living comfortably. At once the king thought that this clever man should be brought from the river bank and placed under his direct supervision. The man was brought before the king who commanded him to count the number of courtiers and ministers who came daily to

pay their homage to the king. Here again, Sir, as I have already said, he played his cards well. He used to count the number of visitors and in the intervals he used to approach the king and whisper in his ear the number that had come. The visitors who noticed this naturally thought that he must be a big personage in the full confidence of the king. As a result, these visitors began to pay attention to him, and when they had free access to this officer, they ventured to suggest to him that he would be pleased to speak something on their behalf to the king. The officer certainly did promise to them to do all that lay in his power for them, and thereby began to earn large sums of money. Subsequently this fact also reached the ears of the king. To his utter surprise, the king was in a fix as to what to do with this man. After considerable thinking, the king came to the conclusion that he would be quite suitable as his chief minister, and he did become the chief minister.

Now, my point is that in the matter of the administration of this Act, perhaps the Hon'ble Member does not know that this Act will be administered by the irresponsible underlings of the Excise Department more in the breach of the law than in its observance. Sir, the petty officers will be authorised to report suspicious cases to their superiors, and on their reports, the Collector or the Excise Officer will pass his orders. Therefore, it is evident that there is every chance of the power being misused. Perhaps the Hon'ble Member is thinking that as in one instance he has reduced the amount from Rs. 100 to Rs. 50 and in another instance to Rs. 25 in this particular instance he might have to come down to Rs. 12-8. It is quite probable. But even in that case I consider that it is also a very big amount in view of the license fees that are provided in the Bill. It has been suggested by Rai Bahadur Satish Chandra Mukherji that this sum might be double the amount of the license fee payable. It is a very reasonable suggestion, and if the Hon'ble Member accepts this, there would be less chance of corruption. Otherwise, there is every probability of Government not getting the huge amount that they are expecting to get and the underlings of the department will have a good time. The poor people also will be very much oppressed and harrassed. Therefore, I maintain that the loophole should not be kept. I hope the Hon'ble Member will see his way to accept one of these amendments.

Babu KHETTER MOHAN RAY: I beg to move that in clause 8 (*1*), in line 6, for the words "one hundred rupees," the words "fifty rupees" be substituted.

Sir, my reason for moving this motion is this. The highest punishment leviable under the Act is Rs. 50 and a man should not be asked to pay more than Rs. 50 by way of composition. With these words I move my motion.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I should like to speak on the clause itself. This clause provides for the composition of an offence by the Collector or an Excise Officer not below the rank of Superintendent of Excise especially empowered by the local Government in this behalf, so that if an offence is committed, any Excise Officer who is authorised to make an arrest will have arrested the offender. That is the only way in which he can be dealt with otherwise than being taken up to the court. There is the provision for arrest. If he is arrested, he will be tried by the Magistrate, or he will be let off on bail, or there will be a compounding of the case by the Collector or the Excise Superintendent. I understood the Hon'ble Member said that the object of the Government was not to prosecute but to realise the license fee. The Excise Officer would go and if he finds a person selling tobacco without license and if the license fee is paid on demand, nothing further will be done. But by that time the offence has been committed and where is the provision for doing so in the Bill? No doubt I suppose Sir John Woodhead would say as he said in reference to another matter on which I spoke last night that it will follow automatically or perhaps will come out of some of unknown inherent powers. Sections 6 and 7 provide penalty for selling tobacco without license. When an offence has been committed, the penalty is incurred. The only way out of it is clause 8, and that is the composition by the Collector or the Excise Officer. If clause 8 had not been there, it is conceivable that the Excise Officer who finds an offence being committed might have abstained from prosecuting; but that Excise Officer is by implication deprived of the power of composition, namely, the offering and taking of the license fee. No one but the Collector has the power to compound and no composition is possible except on payment of a sum of money not exceeding Rs. 100 or Rs. 50. Well, I take it that Sir John Woodhead will realise that there is a loophole in his Bill. I will not follow the illustrious example of Sir John Woodhead when he criticised my motions. These criticisms might have been easily met, if he had made some constructive suggestions. But he did not make such suggestions. The Bill does not provide, once an offence has been committed, for not punishing the man. It is no doubt true that Government do many things which are not provided in the law, and this will be one of the many things not allowed by law which will be done by Government. It is not in the contemplation of the law as expressed in the Bill. If that is in

their mind, then nothing would be easier than to provide for it somewhere in the Bill. If it is not provided in the Bill, then it will be interpreted by the subordinate Excise officers in their own way and they will find that they have no power to do anything but to haul up the man before the Collector or the Excise Officer who can compound only on the payment of the money. If that is so, the least that the Government can do, unless they propose to give up the section, is to accept one of the amendments and make the penalty as low as possible. If the Excise Officer grants the license even after the offence is committed, I think his action will be *ultra vires*. That clear implication of the law cannot be overridden even by the circular orders of Government.

The Hon'ble Sir JOHN WOODHEAD: Sir, this clause gives power to certain superior officers, the Collector or an Excise Officer not below the rank of Superintendent of Excise, to compound offences. The object of the clause is to enable a person to pay a sum in composition instead of being hauled up before the court. I did not follow Dr. Naresh Chandra Sen Gupta. I still hold we have a perfect right to refrain from prosecuting a person who has been guilty of selling tobacco without a license, should he take out a license. There is nothing in the Act which compels us to demand that he shall pay something in addition to the license fee. There is really nothing to be said as regards this clause; it is not an uncommon clause. The object is to enable superior officers of the department to compound offences on payment of a sum of money. To some extent it embodies the idea which Dr. Sen Gupta had in his amendments that instead of the guilty person being hauled up before the court he should be dealt with by the executive. We give the executive the power to accept, provided of course the offender agrees to pay, a sum of money in composition of an offence whereas what Dr. Sen Gupta wanted to do was to give power to the executive to impose a penalty, a very different thing. I oppose the amendments, except amendment No. 126. I will accept amendment No. 126.

Babu Khetter Mohan Ray's motion being put, a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.	Benjamin, Mr. H. D.
Ahmed, Khan Bahadur Maulvi Emaduddin.	Blandy, Mr. E. N.
Bal, Babu Lalit Kumar.	Bose, Mr. S. M.
Bal, Rai Sahib Sarat Chandra.	Chanda, Mr. Aparva Kumar.
Banerji, Rai Bahadur Keshab Chandra.	Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Barma, Rai Sahib Panchanan.	Cohen, Mr. D. J.
Basir Uddin, Khan Sahib Maulvi Muhammad.	Das, Babu Satyaprasad.
Basu, Mr. S.	Dutt, Mr. S. S.
	Dutt, Rai Bahadur Dr. Haridhan.

Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. H.
Gilchrist, Mr. R. B.
Gladding, Mr. B.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manmohan.
Mukherji, Rabu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Reverend R. A.
Nag, Rabu Suh Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rai Mahasai, Manindra Dev.
Ray, Baba Khetter Mohan.
Ray, Babu Rajendra Narayan.
Ray Chowdhary, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satteswar Singh.
Ray, Mr. Sarat Kumar.
Ray Chaudhuri, Rabu Ham Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshay Kumar.
Townsend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Rabu Pramhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hahim, Maulvi Abdul.
Haque, Kazi Emdadul.
Maiti, Mr. R.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Nasesi.
Sumad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 54 and the Noes 19, the motion was carried.

The other motions failed.

The question that clause 8, as amended, stand part of the Bill being put, a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emadeddin.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aperva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chokhany, Rai Bahadur Ram Dev.
Cohen, Mr. D. J.
Das, Babu Guruprosad,
Dutt, Mr. S. C.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. H.
Gilchrist, Mr. R. B.
Gladding, Mr. B.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manmohan.
Mukherji, Rabu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Reverend R. A.
Nag, Babu Suh Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir, Bijoy Prasad Singh.
Roy, Mr. Satteswar Singh.
Roy, Mr. Sarat Kumar.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshay Kumar.
Townsend, Mr. H. P. V.
Walker, Mr. R. N.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Maulvi Nurul Absar.
Faziallah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Poddar, Mr. Ananda Mohan.
Qussem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemai.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 52 and Noes 19, the motion was carried.

Clause 9.

Mr. DEPUTY PRESIDENT: Now we come to amendments Nos. 127-130 which refer to the omission of the clause and No. 131 which refers to the substitution of the clause. Without prejudice, these amendments can be discussed together unless there is any objection. I accordingly propose to take them up together.

Mr. P. BANERJI: I do not move my amendment. It has been decided that Dr. Naresh Chandra Sen Gupta will move it.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that clause 9 be omitted.

This clause seeks to authorise the Collector or any Magistrate empowered under section 19 to try offences punishable under this Act, or the Excise Commissioner or any excise officer not below the rank of Superintendent of Excise specially empowered, to issue a search warrant. This, I submit, would be a most oppressive provision. There is no question here of the quantity of tobacco sold: the only question which the Court is to determine, the only question which concerns Government is whether a person is selling tobacco without a license. What earthly good a search warrant would do in this connection I fail to understand. It is no doubt true that a person may be keeping tobacco for sale concealed, and in that case a search warrant may be issued for the purpose of getting hold of that tobacco. But I submit that, having regard to the small amount of the license fee concerned and having regard not only to the possibility but to the ease with which evidence with regard to the sale of tobacco can be got, Government might easily agree to go without the power to issue a search warrant. It would not harm them at all: it would not affect the revenues in the least or at any rate to an appreciable degree; on the other hand, this power of issuing a search warrant might be an effective instrument of oppression. A search might be a terrible nuisance, as we have learnt to know in recent years,

when searches have been the source of so much trouble to the people. Any excise officer who has got reason to believe that a big merchant has kept a certain quantity of tobacco concealed for the purpose of selling it hereafter, may go not to the Magistrate but to any Collector or excise officer who is specially empowered in this behalf and get a warrant for searching the premises of the big business-man; and what does a search mean? It means that the whole business of the person will be upset for the time being, all his things will be scattered about, destroyed to a certain extent and greatly reduced in value, although in the end not a single leaf of tobacco can be found in his house. It will be a terrible nuisance, and there is not the slightest occasion or justification for these search warrants, even when they are issued by the Magistrate. I submit that the Government can easily agree to do without this drastic power.

Mr. DEPUTY PRESIDENT: Maulvi Abdul Hakim may now move his amendment No. 131.

Mr. NARENDRA KUMAR BASU: Sir, amendment No. 131 proposes substitution of this clause, while amendment No. 130 is for the omission of the clause altogether.

Mr. DEPUTY PRESIDENT: We may proceed with the discussion of amendment No. 130.

Mr. NARENDRA KUMAR BASU: Sir, I submit that Government have not considered this question with that thoroughness with which they do consider certain matters, and with which one expects them to consider matters legislative. If members of the House will turn to the Bill, they will find that comparison is invited to Bengal Act V of 1909, section 69, that is to say the Bengal Excise Act. Section 69 of that Act says that the Collector or Magistrate and so forth may in the course of an enquiry into an offence punishable under sections 46, 48, 52 and 53. Section 46 deals with unlawful import, export, transport, manufacture and possession and sale of excisable articles. Section 48 deals with altering or attempting to alter any denatured spirit. Section 52 deals with possession of excisable articles in respect of which an offence has been committed. Section 53 deals with penalty for consumption in chemists' shops of any excisable articles which have not been *bonâ fide* medicated. One can very well understand why a search warrant should be necessary in certain cases for the purpose of seizing excisable articles which may have been used for an offence under any of these sections, because what the Excise Act prohibits is the possession of these articles.

But here, Sir, this is a mere licensing Bill, and what is made an offence under this Bill is trading without a license. The license fees provided in the Bill are Re. 1, Rs. 3 and Rs. 6, respectively. Well, if a man sells tobacco without paying Rs. 3 for the license, is it just or is it at all necessary that his stock-in-trade should be searched for and produced in court? I submit, Sir, that it will be absolutely unnecessary. If the possession of the tobacco had been an offence, then one could have understood the utility of search warrant, but it is not the possession which is an offence provided against. It is the question of the sale, and the question of the sale can be proved by evidence of the persons in whose presence the sale takes place, the evidence of purchase and other things. We have heard of a search warrant being necessary either under the Excise Act or under the Criminal Procedure Code, for the production of things which are required to be produced for the purpose of proving a case. But it will be as much just or proper to provide for a search warrant to produce tobacco alleged to have been sold by a person who has not taken out a license as to say that when a man is accused of committing nuisance in the public streets a search warrant may be issued for the purpose of bringing into court the proceeds of that nuisance. I submit, Sir, it would be monstrous to issue a search warrant where the only offence charged is that the offender had not a license to sell tobacco. I submit it is not only not at all necessary, it may lead and it will lead to harassment if a search warrant is issued. I do not think that many Magistrates will be willing to issue search warrants in these cases and I think the Government reply will be somewhat to that effect. I do not know whether it will be so; but if the reply be to that effect, then my submission is—Why have a provision in the law which is absolutely useless and is likely to be a dead letter?

Mr. SHANTI SHEKHARESWAR RAY: Sir, I rise to support the amendment of my friend, Dr. Naresh Chandra Sen Gupta. I am inclined to think that the clause as it stands in the Bill is the result of more or less loose thinking on the part of the Government of Bengal or perhaps the draftsman of this Bill. Sir, it is more or less an amateurish attempt at raising taxation. Sir, I have given my careful thought to this Bill and I am inclined to think that the whole trouble is due to the fact that the Government of Bengal were not clear about what they intended to do. Perhaps, they wanted to raise some money and they thought that perhaps by taxing tobacco they could raise some money. They first met with a difficulty that if they taxed tobacco as such they would be taxing something that was an agricultural produce, and there would be difficulty in imposing such a tax. Well, then they hit upon the idea of getting hold of the salesmen and the traders of tobacco, leaving alone the producers of tobacco, that is the agriculturists. They could treat tobacco as an excisable

article, but in that case perhaps the difficulty was that it would be an excise duty and the yield from that duty would not be available for the purpose for which Government wanted to raise the money. Well, then they hit upon the idea of fixing a license-fee on the traders of tobacco. I do not know why they are so hard on these particular traders, that is those who trade in tobacco. It is very difficult to understand why they have not hit on any other body of traders.

Mr. DEPUTY PRESIDENT: Mr. Ray, you need not go into that.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am going to explain the whole injustice of the clause and not of the tax. Sir, I have already said that it was the result of a bit of loose thinking on the part of Government. They wanted money and if they fixed only a license fee the people would have tried to evade it. So they brought in the provisions of the Excise Act, though they have not had the courage to treat it as an excise subject. If they had treated it as an excise duty, there would have been some justification for putting in these provisions in this Bill on the lines of the Excise Act; but when they did not treat it as an excise subject, there is no justification for putting in these drastic provisions in a Bill of this sort which has been brought forward with the professed object of only raising a tax from a certain class of traders. Sir, as I have said before, I have my own doubts about the constitutional position of the Government of Bengal in imposing this tax on the traders for the purpose for which they want it. That is however a question I shall discuss later on. Though I may not get a ruling from the Chair, I shall have to leave it to the higher authorities who are entrusted with the task of seeing that the Finance Member does not go wrong. As I have pointed out, I think that the Government of Bengal should do a bit of clear thinking. If they want to impose a tax just to raise a certain amount of money by taxing traders, there is absolutely no necessity for the stringent measures which are likely to create unnecessary irritation, for the provisions which are likely to be abused by the underlings of the Department entrusted with the carrying out of the details of this Act. The more wise course would be to drop this clause altogether and think out and provide a procedure that would work without much friction, without much irritation and without causing discontent, and without leaving loopholes for corruption to the officers of the Department.

Maulvi TAMIZUDDIN KHAN: I beg to support the motion that has been moved by my friend, Dr. Naresh Chandra Sen Gupta. I think, as has been pointed out very ably by Mr. Narendra Kumar Basu, that this clause is altogether unnecesary. Sir, as far as the Bill as a whole is concerned, there are several main objections to it, and one

of these main objections is that this Bill will be a source of unnecessary harassment to some innocent people. I think, Sir, that is an apprehension which is very widespread and it is up to the Government to see that as far as possible no grounds may be prepared for the fruition of any apprehension like that. I think if this clause is omitted, Government will lose nothing. There are other provisions of the Bill which are very strict and stringent. By the application of those clauses the administration of the measure will be as successful as it can possibly be and if this clause be omitted, no harm will be done to the measure. It will be seen that this clause provides that a search warrant may be issued in two cases: if some information is received to the effect that an offence under this Act has been committed or is likely to be committed, a search warrant may be issued. It will be seen that even if there is an information to the effect that an offence is likely to be committed, a search warrant may be issued. It is very difficult to imagine what kind of information may be received so far as the likelihood of the commission of an offence under this measure is concerned. Probably someone may give an information that so and so has stocked such a quantity of tobacco, and that he will sell the tobacco and he has not taken a license. Upon that a warrant will be issued against that person. Everyone knows with what fear the people in the villages look upon a search warrant. Issue of a warrant is a scare to the innocent public. I think as far as possible every attempt should be made to avoid doing anything to add to that fear. Of course it may be said that unless a search warrant is issued and unless some of the things are seized, it will be difficult to prove that an offence has actually been committed. I think only in very serious cases *alamat* is seized and brought before the court. As regards petty offences these are generally proved by the production of other evidence. What are the offences that this measure creates? These are petty offences punishable with a fine of Rs. 50 in one instance and Rs. 25 in another instance. These are minor offences which this measure seeks to create. For the proof of such minor offences it is proposed to authorise some officers to issue a search warrant against an intending dealer or a dealer who has perhaps broken or is likely to break some conditions, which condition it is difficult to imagine, of the license under this measure. I think this clause is absolutely unnecessary and it can be very well dispensed with.

(The Council was adjourned for 15 minutes.)

(After Adjournment.)

The Hon'ble Sir JOHN WOODHEAD: I shall preface my replies to the criticisms of this clause by announcing that I am prepared to accept amendments Nos. 132 and 133, the effect of which will be to

restrict the power to issue a search warrant to a magistrate empowered under section 19 to try offences punishable under this Bill. I will argue on the assumption that the clause has been modified in that way.

It has been said that this clause is absolutely useless, will never be required. I do not agree with that view. The clause perhaps looks rather terrifying when it is being examined in the course of the passage of the Bill, but, Sir, I hope I shall be on sure ground in saying that search warrants are not issued as a matter of course; the power to issue a search warrant is in the nature of an ultimate power, a power which may be necessary in order to obtain evidence in proof of an offence under the Bill. The possession of tobacco by a shopkeeper in his shop will certainly be valuable evidence in support of a charge that the shopkeeper has sold or is keeping for the purpose of sale tobacco without a license. Again, take the instance of a vendor who has got a retail license but is selling wholesale. One of the best pieces of evidence to establish that charge will be his account books. It may be necessary to obtain a search warrant for the purpose of seizing his account books. In defence of this clause I would urge that the Act must be made effective. The law must be made effective and in my opinion this power of issuing a search warrant is a power which is necessary to ensure that the law is effective.

Another point I would make is this: Under the Criminal Procedure Code when a magistrate has taken cognizance of an offence under this Bill, the magistrate has the power to issue a search warrant. He is not——

Dr. NARESH CHANDRA SEN GUPTA: What about section 98?

The Hon'ble Sir JOHN WOODHEAD: The magistrate has power to issue a search warrant provided he has taken cognizance of the case, but in view of the provisions of section 94 of the Criminal Procedure Code a magistrate, who has not taken cognizance of the offence, has no power to issue a search warrant with reference to an offence under this Act. Section 94 only gives him the power to issue a search warrant with reference to a proceeding, investigation, enquiry, or trial under the Criminal Procedure Code. Enquiries into offences under this Act by the executive are not enquiries under the Criminal Procedure Code. Now, Sir, is there any reason why a magistrate who has power to issue a search warrant after cognizance, should not be given the power to issue such a warrant before cognizance? I can think of none. I trust my acceptance of the amendments which have the effect of limiting the power to issue a search warrant to a magistrate will meet some of the objections which have been raised to the clause as drafted, and I hope the House will accept the clause as modified. I must oppose the amendments designed to secure the entire omission of the clause.

Dr. Naresh Chandra Sen Gupta's motion being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chokhany, Rai Bahadur Ram Dev.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Faziulah, Maulvi Mohammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Mohammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzem Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Hashem Ali.
Khan, Maulvi Yamizuddin.
Malik, Mr. R.
Mittra, Babu Sarat Chandra.
Mamin, Khan Bahadur Muhammad Abdul.
Poddar, Mr. Ananda Mohan.
Qaseem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Roy, Babu Amulyadhan.
Roy, Mr. Sasti Shekhareswar.
Roy Chowdhury, Babu Satish Chandra.
Rout, Babu Hemai.
Saadatullah, Maulvi Muhammad.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Bazir Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Dr. Jogendra Chandra.
Cohen, Mr. D. J.
Das, Babu Gangaprasad.
Dutt, Mr. S. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. N.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Martin, Mr. G. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Manmohan.
Mukherji, Babu Dhirendra Nath.
Nag, Babu Suh Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Ray, Mr. Sailesswar Singh.
Ray, Mr. Saret Kumar.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshay Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 34 and the Noes 42, the motion was lost.

Maulvi ABDUL HAKIM: I beg to move that for clause 9 the following be substituted, namely:—

"9. Any Magistrate empowered under section 19 to try offences under this Act may on the application of the excise officer concerned issue a warrant to search for and to seize any tobacco in respect of which such offence may have been or is likely to be committed together with any receptacle, package or covering in which such tobacco may be found and any document which throws or is likely to throw any light on the alleged offence."

Sir, the object of my moving this amendment is only to give the Magistrates the power to issue search warrants, and I think no other officer of the Department of Excise should be vested with this power. Sir, doing justice, is the greatest and most revered function of God Himself. And the persons, I mean the Judges or Magistrates sitting as such, carry out the functions of the Divine Judge Himself. This power of administering justice should not be vested in officers other than the Judges and Magistrates appointed by Government for administering justice and who are held in higher esteem by people than any other class of Government servants. Moreover, Sir, an excise officer, high though he may be, is an officer of the department itself and it is unsafe to give the power of trying offences or issuing search warrants to any officer of the department who is interested directely or indirectly in the subject matter of the trial.

The Hon'ble Sir JOHN WOODHEAD: Sir, it is immaterial, because I propose to accept the amendment omitting the words "or the Excise Commissioner or any Excise Officer not below the rank of Superintendent of Excise specially empowered by the Local Government in this behalf."

Maulvi ABDUL HAKIM: If it is not so, why is there a cry for the complete separation of the judiciary from the executive? Why cannot the police officer at whose instance an accused person is arrested try the offence? Why is the confession of guilt made by an accused even to a Superintendent of Police, although that accused is a murderer, considered no confession at all before a judicial officer? If the members of the Government will excuse me, I may say that sometimes the highest officer of the department concerned is led by the report of the lowest officer under him, believes his report as true and takes action upon it. For instance, the jute crop report is mainly supplied by the chaukidar of the village and I can say that neither the president of the union board nor the circle officer nor any other officer of Government under the sun verifies that report with care and attention, but still that report is finally believed by even the Minister in charge or Government Member in charge of the department and is published in the official Gazette, and if that report is called into question, even the Hon'ble Minister or Government Member sticks to that report in spite of opposition by the whole country. I can give you another concrete instance of the biasness of a departmental head towards his subordinates. Perhaps all of you are aware that the other day a question was raised about the incompetency of the Public Prosecutor of Mymensingh.

The Hon'ble Sir JOHN WOODHEAD: Sir, I may explain at this stage that I intend to accept amendments Nos. 132 and 133 which will

have the effect of restricting this power to a Magistrate empowered under section 19 to try offences punishable under this Act, and I think all the remarks of the hon'ble member about search warrants are irrelevant.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. Those amendments are not yet before the House. Perhaps the Hon'ble Member may change his opinion when they actually come up for discussion.

The Hon'ble Sir JOHN WOODHEAD: Sir, I have never changed my opinion after I have announced my decision.

Mr. SHANTI SHEKHARESWAR RAY: But I may change my opinion.

Maulvi ABDUL HAKIM: In spite of serious reports of a Sessions Judge and a District Magistrate against him, and to crown all in spite of a most serious and damaging statement against his moral character, he is being retained in his responsible post as a Public Prosecutor without any rhyme or reason.

Mr. DEPUTY PRESIDENT: What has that got to do with the question before the House? I think you had better omit the rest of that portion of your speech.

Maulvi ABDUL HAKIM: All right. Sir, in this country where our womenfolk remain confined within the four walls of our houses, the search warrant is considered to be a very humiliating thing, and it may be that the house of a *bhadra* tobacco-seller would be searched at the instance of a sub-inspector or petty officer of the Excise Department, simply because of his refusal to give the officer certain amount of bribe or because of the personal grudge existing between them. If a departmental head is empowered to issue search warrants, he may issue them at the instance of his subordinate officers for such reasons, and Sir, such a search warrant shall sometimes cause harassment to an innocent dealer for the reason stated by me before, and if this search warrant is found to have been issued on false grounds, the head of the department may not take any action against his subordinate officer at least on account of the official subordination and familiarity existing between them. But if the power of issuing search warrants is vested in a Magistrate who is a judicial officer, the reporting excise officer will hesitate to make any false report against a dealer, at least for fear of being prosecuted then and there by the Magistrate who would not hesitate at all to prosecute such a public servant with whom the

Magistrate has neither familiarity nor any connection whatsoever. Another point which strikes me very much in this connection is that: Sir, as far as I can visualise after this Act will come into operation, a new regime will be created by Government for taking bribery. And, Sir, you all know that even a District Magistrate or a Superintendent of Police has been accused of taking bribes. And thousands and thousands of poor tobacco cultivators and tobacco dealers will be harassed by the subordinate officers of the Excise Department with the intention of realising bribes from them on slight pretexts. The common people are already being harassed at the hands of the subordinate police officers; over and above that, if this Act comes into operation, another department would be created in the country for taking bribes from the helpless poor illiterate tobacco dealers and cultivators and for harassing them. Sir, the issue of a warrant or a search warrant either for the arrest of the accused or for the seizure of his property in connection with the offence is certainly a part of the trial and it should be done by the Magistrate himself and not by any officer of the department concerned. Sir, I have great regard for the Hon'ble Sir John Woodhead and I appeal to his vast experience and wisdom to consider my amendment seriously, and I hope that he would accept my amendment not only for efficient administration of the department but also to preserve the unique prestige of the judicial officers.

With these words I commend my motion to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 9, line 1, the words "any Collector or" be omitted.

I also move that in clause 9, lines 2 to 5, the following words be omitted, namely:—

"or the Excise Commissioner or any Excise Officer not below the rank of Superintendent of Excise specially empowered by the Local Government in this behalf."

Sir, if these two amendments are accepted, it will give power to issue search warrants to Magistrates only. As the Government propose to accept these amendments, I do not want to take the time of the Council very long, but I would only point out that if a Magistrate issues a search warrant, there is this advantage: he is used to issuing search warrants under the Criminal Procedure Code. Sir John Woodhead seems to be under a misapprehension with regard to the provisions of the Criminal Procedure Code. Section 94 deals with the production of a document, and section 96 deals with the issuing of search warrants. I submit, Sir, that the Magistrate issuing warrants will at least have regard for the principle of this section. For instance, under section 96 search warrants can be issued

for the production of a document which has been called for under section 94, and under section 98 a search warrant can be issued where a District Magistrate, Subdivisional Magistrate, or a Presidency Magistrate or Magistrate of the first class upon information and after such enquiry as he thinks necessary has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin or instruments or materials for counterfeiting coin or stamps or for forging or that any other forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps, or for forging, are kept or deposited in any place. It is only in very, very serious cases that the Magistrate issues a search warrant and if an Excise Officer goes to a Magistrate for the issue of a search warrant in such cases, a Magistrate who is used to administer the law according to sections 96, 98 and 100 of the Criminal Procedure Code will be reluctant to issue a warrant in ordinary cases. The only justification for a provision relating to the issue of a search warrant which Sir John Woodhead seriously put forward was that there was no provision in the Bill otherwise for an Excise Officer to have access to books of account or other documents in order to enable him to determine whether the dealer is a wholesaler or a retailer. I take it that he is thinking of a case where a person has taken out a license as a retailer but there is reason to suppose that he is selling tobacco as a wholesaler. In that case I submit the Bill provides for ample power on the part of an Excise Officer to get hold of account books. Clause 11 provides that any of the following officers, namely, "the Excise Commissioner or the Collector, or any Excise Officer not below the rank of Sub-Inspector of Excise may, subject to the prescribed restrictions, enter at any time during which the same may be open any place in which any tobacco is exposed or kept for the purpose of sale by a person holding a license under this Act and examine any accounts or registers maintained in such place." Here the question is whether a man is a wholesaler or whether he has taken out a retail license. The power is there: Government have the power to ascertain whether a tobacco dealer is trading as a wholesaler on a license taken out as a retailer. However, if we cannot get rid of a search warrant altogether, I think the least that we could do is to provide that the search warrant should be issued only by a Magistrate who has been trained in an atmosphere of working under the Criminal Procedure Code and who will certainly look into the matter with proper consideration.

The Hon'ble Sir JOHN WOODHEAD: Maulvi Abdul Hakim complained about Government officers not verifying the reports submitted by their subordinates. I believe, Sir, Maulvi Abdul Hakim must be a

Government officer, too, because he absolutely refused not only to verify the changes which I have agreed should be made in this clause but also to accept my statement that I was prepared to agree to those changes. For all practical purposes I am prepared to do what he wants me to do, but having prepared a written speech he could not refrain from reading it. His amendment amounts to this, that the power to issue a search warrant should be limited to a Magistrate empowered under section 19 to try offences, and I propose to accept amendments Nos. 132 and 133 which have that effect. I prefer the wording of the clause as it is in the Bill and that is why I cannot accept his amendment. I must oppose this amendment but I again repeat that I am prepared to accept amendments Nos. 132 and 133.

Maulvi Abdul Hakim's motion was put and lost.

Dr. Naresh Chandra Sen Gupta's motion that in clause 9, in line 1, the words "any Collector or" be omitted, was put and agreed to.

Dr. Naresh Chandra Sen Gupta's motion that in clause 9, lines 2 to 5, the following words be omitted, namely:—

> "or the Excise Commissioner or any Excise Officer not below the rank of Superintendent of Excise specially empowered by the Local Government in this behalf"

was put and agreed to.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 9, line 6, the words and brackets "(if any)" be omitted.

This amendment is not at all of an ambitious character. I want to omit the words "if any" in line 6. This clause provides that a Magistrate will be empowered to issue a warrant on receipt of some information after such enquiry as he thinks fit. The Bill says that the enquiry may or may not be made. It all depends upon the pleasure of the Magistrate. If he thinks it necessary to make an enquiry he may do so, but if he does not think an enquiry necessary, he need not make any. That will be the meaning if these words, "if any" are there. I think, Sir, the whole clause is objectionable but there is no use quarrelling over spilt milk as it has already been accepted. Still, I think it will be some improvement if these words are omitted, so that it will be the duty of the Magistrate to make an enquiry in every case. I think, Sir, Government should accept the motion.

The Hon'ble Sir JOHN WOODHEAD: Sir, I am prepared to accept the amendment. The words, "if any" occur in the Excise Act but I do not think there is any particular harm in omitting them. I accept the amendment.

The motion was then put and agreed to.

The motion that clause 9, as amended, stand part of the Bill was put and agreed to.

Clause 10.

The motion that clause 10 stand part of the Bill was put and agreed to.

Clause 11.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 11, line 6, after the word "time" the words "except between sunset and sunrise" be inserted.

Mine is an innocuous amendment and I think Government may not find it difficult to accept it. Clause 11 empowers the Excise Commissioner or any officer of the Excise Department not inferior to the rank of Superintendent of Excise and the Collector also with the right of entering at any time any place in which any tobacco is exposed or kept for the purpose of sale by a person holding a license under this Act and examine any accounts or registers maintained in such place. That is to say, Sir, the right is given to these officers to enter any place at any time.

The Hon'ble Sir JOHN WOODHEAD: If the hon'ble member will read the clause carefully he will find that it is not so.

Kazi EMDADUL HOQUE: Of course there are the words "subject to prescribed restrictions," but what do they mean? Have we got any idea what the restrictions will mean? It may be that these officers will be entitled to make an entry into a house in which tobacco may be found to be deposited, under certain restrictions but, Sir, where are these restrictions to be found? Have they been prescribed in the Bill? From clause 29(*g*) it appears that these restrictions are relegated to the rule-making power of the local Government and that is why they have not been prescribed here in this Bill. But, Sir, we do not know at all what sort of restrictions will be prescribed by the Hon'ble Member. There might be various restrictions prescribed by the local Government under their rule-making power, but where is the guarantee that the restrictions will be prescribed in the direction in which we want them? The Hon'ble Member perhaps means that officers will not be entitled to enter any room at any time they like, because they will be entitled to enter the house in which the tobacco is deposited only when it is found open. I think, Sir, the Hon'ble Member is under a delusion here that small tobacco dealers have very, very big godowns in which they store up their tobacco. That is not the thing at all. In the mufassal we find that small tobacco dealers store up their tobacco in a part of their dwelling house, or in a part of their outhouse, which has practically no wall to speak of. It is simply an open outhouse

without any wall. My esteemed friend the Hon'ble Member may not be able to think of such a hovel in which our village tobacco dealers live. These insignificant dealers in tobacco store up their goods only in a corner of the hovels in which they reside and these hovels need not have any walls even; so they cannot be left under lock and key. Therefore, according to the clause these officers will be entitled to enter the house because they will always find it open, as they cannot be kept under lock and key. So that there will be nothing to prevent these officers making an entry to a house at any time they like to the annoyance of the tobacco dealers. So I think that they should not be allowed to enter any house in which tobacco is deposited according to their sweet will and to the inconvenience of the tobacco dealers living therein. As the restrictions are not mentioned in the Bill and there is no knowing whether there will be at all any restriction in the desired directions and in view of the fact that most of the houses of the insignificant tobacco dealers have no walls it would be a great inconvenience if these officers are allowed to carry on their work of looking into the accounts or registers maintained in such places. Now, simply because it will create unnecessary annoyance to the poor dealers, I think it is only necessary that this amendment should be accepted by Government so as to avoid that sort of annoyance and inconvenience. With these few words I commend my motion to the acceptance of the House.

Mr. P. BANERJI: After hearing the mover, the Kazi Sahib, I consider, Sir, that this is a very reasonable amendment. The Kazi Sahib has brought to the notice of the Hon'ble Member in charge that it is usually the case with the ordinary dealers of tobacco that they do not have a big shop, as the Hon'ble Member thinks that they have. It is not possible for these men to maintain a regular shop. In many cases they store this commodity mainly in their own houses and in these houses it is often the case, as the mover has pointed out, the tobacco is kept exposed. The houses where these people live are open at all times, and this power of entry and inspection on the face of it appears to be reasonable. But, Sir, if we have to speak from experience, we may find what is the position of excise officers in the villages or for the matter of that even of an excise *chaprasi*. We know, Sir, that in the case of inspection of excisable articles these people even force the villagers to open their doors. The intention of the mover of the motion is that there is every chance that these excise officers may use the power of inspection between sunset and sunrise. If this period be not restricted, it will be very difficult for the ordinary dealer, retailer and the peasant to defend himself in case of a seizure, because the officer, whoever he might be—either the Magistrate, the Commissioner of Excise or the Collector or an Excise Sub-Inspector—will entirely

depend on the information of his underlings—even an excise *chaprasi*. These persons will not listen to any plea of inconvenience from persons in the villages. In this connection I may perhaps remind you of an incident of which our friend Khan Bahadur M. A. Momin had experience. Once before I narrated the incident and I may repeat it to-day. His statement was not accepted against the evidence of a constable——

Khan Bahadur MUHAMMAD ABDUL MOMIN: I rise, Sir, on a point of personal explanation. It is not correct that the constable's evidence was taken against mine. It is entirely a mistake of fact.

Mr. DEPUTY PRESIDENT: Mr. Banerji, leave out the Khan Bahadur entirely and please come to your point.

Mr. P. BANERJI: Sir, I was just giving this House the incident of which I know. Perhaps the Khan Bahadur being a big officer feels ashamed.

Mr. DEPUTY PRESIDENT: Leave him out altogether

Mr. P. BANERJI: Very well, Sir. I accept your suggestion and leave him out entirely. Sir, what I was going to submit to you was that I fail to see what might be the objection on the part of the Government to accept the suggestion moved by the mover. It is suggested from this side of the House that your men must not enter any place for inspection during night time. It has been very ably pointed out by Dr. Sen Gupta that tobacco is not an excisable article nor a stolen property.

Sir, the Hon'ble Member in charge has referred to certain sections about the production of documents and he has also said that we need have no reason to be terrified for nothing. If I may quote his own words, this law must be made effective. In order to do so power must be given to such officers to obtain evidence of account book, etc. Dr. Sen Gupta very ably contended that the existing law provides for a remedy and there is no necessity for empowering the officers of the Excise Department with this sort of power. I fail to understand what is the intention of Government. If they want that the law must be effective in order to enable their officers to do their duty, may I enquire whether these officers will do their ordinary duty during night time? I think they would not, unless they do so with the motive of harassing the people. As you know, Sir, the people in the countryside are absolutely helpless and if any dishonest officer wants to create a mischief, what is the guarantee? If he does so during the day time, it is possible to get evidence; but if he does any mischief during night time, it is practically impossible to secure evidence particularly in the

countryside. Therefore, I consider the suggestion made by the Kazi Sahib to be quite reasonable and I request the Hon'ble Member in charge on his behalf to accept the suggestion he has made. With these words, I support the motion.

The Hon'ble Sir JOHN WOODHEAD: Sir, this clause authorises the Excise Commissioner, the Collector or a Sub-Inspector of Excise to enter a place in which tobacco is exposed or kept for the purpose of sale by a person holding a license. The first point to which I would draw attention is that an officer can only enter a place in which a person holding a license under the Act has exposed or kept for the purpose of sale tobacco. Secondly, he can only enter that place while that place is open; that is normally while the shop is open. I see no reason why the right of entry should be restricted to between sunrise and sunset. A shop is a place where tobacco is kept or exposed for sale and if it is open after sunset an officer should have the power to enter it for purposes of inspection. This looks to me to be a perfectly reasonable provision. The clause only gives the power of entry to a place in which a licensee has exposed or kept tobacco for the purpose of sale, and that only while the place is open.

Sir, I oppose the amendment.

The motion was then put and lost.

The motion that clause 11 stand part of the Bill was put and agreed to.

Clause 12.

Mr. P. BANERJI: I beg to move that clause 12 be omitted.

Sir, in doing so I submit to you that this power to arrest persons without warrant and to seize articles is sought to be given by this clause. Government propose to give this power subject to certain restrictions. As has been pointed out by several speakers, the restrictions are not specified, and we do not know what these restrictions would be and the Collector or any Magistrate or the Excise Commissioner or any excise officer especially empowered by the Local Government in this behalf may arrest without warrant any person whom he has reason to believe to have committed any offence punishable under section 6. I want to submit how can a Collector or any Magistrate or

the Excise Commissioner or any excise officer especially empowered by the Local Government in this behalf can have reason to believe a person to have committed any offence punishable under section 6. How can they come to a complete finding without any report before them and this report, as we have often submitted, often comes from such officers who have been held by the highest judiciary of the land, as has been pointed out by Mr. Narendra Kumar Basu, to be as unreliable as the police. The police and the excise officers may be termed as step-brothers of the same Government. We find that Government is extending this power to the Excise Department on political grounds and not certainly on any other ground. I will explain clearly to you what I mean in a minute. We have noticed during the last few years that these excise officers are in league always with the police officers. In every matter they join hands and whatever is not legally possible to be done by them is done by the other with whom they form a clique. In case of any complaint against one brother there is the other brother to protect him. That is a position which we on this side of the House consider to be quite unreasonable. For their work in league with the police the excise officers have certainly got to be rewarded in some way or other, and this Act rather comes to them as a reward.

We have recently noticed that the Hon'ble Member has been very brief in his speeches. It was usual for the Member of Government always either to refute the arguments or suggest valuable arguments to defend his case. But in the course of the debate on this Bill the Hon'ble Member is either not thinking fit to reply to the suggestion made from this side of the House or perhaps he wants to be as brief as possible, so that the business may be finished as quickly as possible, in order to be able to get away from the heat of Calcutta and proceed to the hills. Unless we have it from the Hon'ble Member it is very difficult to say definitely. It is difficult for us to understand the position of Government. I take it that the position of the Government is not tenable for the simple reason that valuable arguments advanced from this side of the House by legal luminaries like Mr. Narendra Kumar Basu and Dr. Sen Gupta or any other big lawyer——

Mr. DEPUTY PRESIDENT: Please come to your amendment.

Mr. P. BANERJI: I am on the amendment. What I was going to submit to you, Sir, is that naturally we expect from Government this much courtesy that the suggestions made from this side of the House——

Mr. DEPUTY PRESIDENT: You have already given expression to your feeling in this matter.

Mr. P. BANERJI: I expect that all the members must be equally conversant with that feeling like myself. Whatever may be the case the position of Government is not tenable. How can the Government think of arresting any person without a warrant for offence under this section who is not found in possession of stolen property or any excisable articles? What the Government wants by this section is to give power to persons, not very big persons, to arrest a person without a warrant. Assuming for argument's sake that they are very responsible officers I ask: Where is their responsibility? A report is sent before them by irresponsible officers and on that report they pass orders. Again, it is possible to arrest without warrant if a person refuses on demand to give his name and residence or gives a name or residence which in the opinion of the Collector, Magistrate, Excise Commissioner or excise officers is false. I ask how is that possible unless somebody else is present on the spot at that time; unless one person knows his real name and address it cannot be said that he has given a false name or false address. On the face of it the provision is absolutely absurd. Then there is another provision, viz., seize and detain any article which might have been seized under a warrant under section 9. I ask: Why should these be seized at all? Although there is a license fee it is not an excisable article. Therefore it is not in the fitness of things that Government should give power to anybody to seize the article. I say that there can be no objection to deleting this clause as there are other sufficient safeguards in the clauses that have just been passed. They are meant to protect Government from any loss and to help them to realise their revenue in case of default or when anybody wants to defraud the Government. There are sufficient provisions in the Bill to protect their interests. Therefore I ask: What is the use of giving still further power just to harass the innocent people in the countryside? Under this section which gives power to arrest without a warrant it is quite possible to arrest any person who is fighting for the freedom of his country because both the police and the excise officers work hand in hand. I submit that it is not only the intention of Government to have some money to help them in this time of need but to carry on a propaganda against those who want freedom and who protest against this sort of lawless laws in the country. I have proved to you beyond doubt that this is the real intention of Government.

Dr. NARESH CHANDRA SEN GUPTA: I support this motion on the ground that if these sections were omitted the result of that would be not that anybody should have a power to arrest a person for committing this offence in no circumstances whatsoever but that the power

would be the power which is given by the Criminal Procedure Code. Under the Criminal Procedure Code this offence would be a non-cognisable offence. It appears from the definition of offence and non-cognizable offence in section 4 of the Criminal Procedure Code that "offence" means any act or omission made punishable by any law for the time being in force and "non-cognizable offence" means an offence for which a police officer within or without a presidency town may not arrest without a warrant.

A non-cognizable offence means an offence for which a police officer, within or without a presidency town, may not arrest without warrant. These are provided for by sections 54 and 55. These are for arrest for cognizable offences and certain other offences. Section 57 provides for the arrest of a person for non-cognizable offence. It says that when any person who in the presence of a police officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained. That is a purpose for which he can be arrested by a police officer. Then it goes on to say that when the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required: provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India. Should the true name and residence of such person not be ascertained within 24 hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction. That is the power of arrest of a police officer in the case of a non-cognizable offence. Section 59 provides that any private person may arrest any person who in his view commits a non-bailable and cognizable offence or any proclaimed offender, and, without unnecessary delay, shall make over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police-station. Then section 65 provides that any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant. So, if this section does not exist, it will not be as there will be no machinery whatsoever for arresting a person who refuses to give his name or residence or gives his name or residence which is believed to be false. The power to arrest under the Criminal Procedure Code rests with the police officer and the police officer can arrest for the purpose of ascertaining his name and residence and release him on his executing a bond. In this clause the power is given not

to the police officer but to the Collector. So far as the Magistrate is concerned, this power is not necessary. Then the Excise Commissioner or any Excise officer is being empowered to arrest, but why? It is not necessary. An Excise officer may get an offender arrested by a police officer. It is not an offence of such a very serious character that in this case the provision should be more stringent than in the case of ordinary non-cognizable offences. Then under section 57 a man can be arrested only for the purpose of ascertaining his name and address and as soon as the name and address are ascertained he is to be let off on bail. This clause does not provide that. It is no doubt true that bail is provided for in clause 18 of the Bill, but it does not do so in the same terms as section 57. So, I submit that the provisions of this clause 12 are more stringent and give more power to more persons than are provided for in the Criminal Procedure Code for non-cognizable offences. This, I submit, is neither necessary nor expedient. The offence is not of such a character as can be committed by a person secretly and the offender cannot abscond. I take it that it is quite possible that a man may be selling tobacco once in his life and the Government do not want to get at him. Government want to get at those persons who make a trade of selling tobacco. Well, that man cannot abscond in such a manner that the provisions of section 57 of the Criminal Procedure Code cannot be brought into operation against him. For these reasons I think the clause is unnecessary and more stringent than the provisions of the Criminal Procedure Code.

The Hon'ble Sir JOHN WOODHEAD: Sir, I have been charged with not paying any heed to the suggestions made by the other side of the House. Has Mr. P. Banerji forgotten that under clause 9 I accepted 3 amendments moved by the other side of the House? Dr. Naresh Chandra Sen Gupta has criticised this clause. Has he also forgotten as Mr. P. Banerji has forgotten—and he supported Dr. Naresh Chandra Sen Gupta—that his amendment No. 99 gave the Excise officer the power to convict a person for an offence under the Act? (A VOICE: That is an old horse.) If the horse is an old horse, it is a good horse. And if that person did not pay the fine, Dr. Naresh Chandra Sen Gupta gave the Excise officer the power to arrest him. His amendment was to the effect that if any person fails or refuses to pay the amount demanded from him under section 6 and there is reason to believe that he would abscond, or his name and address are unknown, or he refuses, on demand, to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any Excise officer authorised to demand such payment, or any Police officer or other person that such Excise officer may call to his aid may, without warrant or other authority, arrest him. That was Dr. Sen Gupta's amendment and it was

supported by Mr. P. Banerji. It further said that the person shall be released on giving bail. The Bill also provides that everybody who offers bail shall be released on bail forthwith. Again, the Criminal Procedure Code empowers a Police officer to arrest a person who in his presence commits a non-cognizable offence and who refuses to give his name or address. An excise officer has no power under the Criminal Procedure Code to arrest a person for an offence committed under this Act, and the object of this clause is to give the officer power to arrest a person whom he believes has committed an offence and whose name and address are not known or who gives a name or address which is believed to be false. That power is certainly essential. A person may sell tobacco without a license and when challenged may promptly disappear. Dr. Sen Gupta says that he is not likely to abscond. To that I would reply—Why then in his own amendment No. 99 did he provide for the power to arrest?

The motion being then put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syad Majid.
Banerji, Mr. P.
Barma, Babu Promkari.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Anwar.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Mossala, Maulvi Mahammad.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Mosai.
Sadatullah, Maulvi Muhammad.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Rawabzada Khwaja Muhammad Khan Bahadur.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Saral Chandra.
Basir Uddin, Khan Sahib Maulvi Muhammad.
Basu, Mr. S.
Benjamin, Mr. N. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Cohen, Mr. D. J.
Das, Babu Surapresad.
Dutt, Mr. G. S.
Farequi, the Hon'ble Nawab K. G. M. Khan Bahadur.
Ferguson, Mr. R. H.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. R.
Guthrie, Mr. F. G.
Hoque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Ahi Abdulla.
Lockhart, Mr. A. R. S.
Martin, Mr. C. R.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Prasad Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Reverend B. A.
Nag, Babu Suh Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Raheem, Mr. A.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr R. R.
Sess, Mr. J. B.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.

Roy, Mr. Surat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 21 and the Noes 50, the amendment was lost.

The question that clause 12 stand part of the Bill was put and agreed to.

Clause 13.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that clause 13 be omitted.

This clause provides that the Collector or any Magistrate empowered under section 19 to try offences punishable under this Act, or the Excise Commissioner, or any Excise Officer, not below the rank of Superintendent specially empowered by the Local Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act. This search warrant is to be issued not by the Magistrate only but by a number of other officers. No doubt this provision is copied like the other provisions from the Excise Act and it is a pity that when the Hon'ble Member thought of imposing this license duty he looked to the Excise Act for a model instead of looking to other sources which are more in common with this matter. A Magistrate is authorised, the Collector is authorised, the Excise Commissioner is authorised, the Excise Superintendent is authorised to issue a warrant for the arrest of a person, for committing the heinous offence of not taking a license for two or three rupees: Sir, the Criminal Procedure Code provides for the issue of a warrant only in the more serious cases and that by a Magistrate only and he can only in the most serious of cases issue a warrant for the arrest of a person straight-off; but in other cases a summons should ordinarily issue. There is no reason why in the case of a slight offence a warrant should be issued forthwith, and there is absolutely no reason why that warrant should be issued not by a Magistrate who is to try the offender but by an excise officer. This goes against the principles of the Criminal Procedure Code and against also the accepted principles of administration of criminal justice. For these reasons I propose that this clause be deleted.

Maulvi SYED MAJID BAKSH: If I understood the Hon'ble Member aright when he was criticising——

The Hon'ble Sir JOHN WOODHEAD: May I rise on a point of personal explanation, Sir? It may shorten the debate if I say at this stage that I am not prepared to accept Dr. Sen Gupta's amendment, but I am prepared to accept a short notice amendment which I understand will be moved and which will have the effect of requiring a summons to be issued before a warrant is issued.

Babu KHETTER MOHAN RAY: With your permission, Sir, I beg to move a short notice amendment to clause 13 of the Bill as follows: That in clause 13, for the words "warrant for the arrest" the words, "summons for the attendance before himself" be substituted, and at the end of the clause the following be added "if such person fails to comply with the summons a warrant for the arrest of that person may be issued by the Collector, Magistrate, Excise Commissioner or an Excise Officer issuing the summons." This will obviate the objection that a warrant should not be issued in the first instance and it will also conform to the general principle laid down in the Criminal Procedure Code that when a summons is issued and the person fails to appear the court has power to cause him to be arrested and bring him before a court. That is on the analogy and the procedure laid down in the Criminal Procedure Code. Therefore, I think, my amendment will be acceptable to the House.

Dr. NARESH CHANDRA SEN GUPTA: What becomes of my own amendment after all, for I cannot accept this further amendment.

Mr. DEPUTY PRESIDENT: Your amendment of course is quite in order but both of them will be discussed together and put separately.

Maulvi SYED MAJID BAKSH: Although I must confess that the rigour of this clause has been somewhat mitigated by the suggestion that a summons may previously be issued before a warrant is issued, yet my chief objection to the clause is that it is contrary to the practice that prevails in regard to the administration of criminal law, namely, that persons who have no concern in trying an offence are here given the power of issuing a summons or a warrant as the case may be. The general principle is that only a person who is empowered to try a case can, if he thinks fit, call upon a person to appear before him in order that he might undergo trial for a breach of the law or for an offence that he might have committed. That person, I mean the trying authority, issues a summons in ordinary cases or a warrant in more grievous cases and the offender is hauled up before the person

who has issued the warrant or the summons, and is placed on trial. But in this case, as has been pointed out by Dr. Sen Gupta, the attempt on the part of the Hon'ble Member to follow the procedure laid down in the Excise Act has created a sort of anomaly which is apparent to many of us. That is the real reason why this section appears to be more or less incongruous. The fact is that the Hon'ble Member in charge of the Bill has confused the essence of this License Act with the provisions of the Excise Act and has placed tobacco, which is not under a ban,—in the sense that previously a license had to be obtained for its sale,—in the same category as an article which goes under the category of excisable articles. The necessity for placing a commodity under the category of an excisable article is that it is more or less of an undesirable character, or because it is used to an extent which is not desirable, and that is why it is placed under a quantitative tax by means of which it is intended that the use of that article will be curtailed. In this case, Sir, I do not think it is the intention of the Hon'ble Member to curtail the use of tobacco. On the contrary, if you look to the schedule you will find that the more tobacco is used the more will be the revenue coming to Government; so that it does not come under an excisable commodity, and necessarily and consequently it should not be placed under the same disabilities as an excise article. As I was telling you, Sir, if a breach of the penal section is committed the offending person may very well be tried in a court of law, where he may be able to defend himself and place his case. Any intervention by a non-judicial authority is therefore out of place and inappropriate. I cannot think of a proposition like this that, an Excise officer should be empowered to issue a warrant, although he will not be able to look into the merits of the case and will be more or less irresponsible because he has nothing to do with the merits of the case. I cannot think of power being placed in the hands of such a person to issue a warrant, a person who will be more or less irresponsible, because he will not be required to try the offence and is consequently apt to be more or less irresponsible, so far as the arrest of the offender and the punishment of the offence is concerned. Therefore, Sir, as a matter of legal principle, I think some such amendment should be accepted which will have the effect of excluding the excise officer from having to do anything with the operation of section 13. The Hon'ble Member, while criticising amendment No. 9 on a previous occasion, stated that he could not allow the excise officers to arrest any person. Is it not, according to the same reasoning, quite pertinent for me, Sir, to suggest that, if a man is not at all competent to arrest a person, consequently he is not competent to set in motion a machinery which will result in his arrest? As he cannot arrest, he should not be empowered to take steps leading to the arrest of the offender.

Sir, I have noticed the short-notice amendment that has been moved just now, and I would have been very agreeable to its acceptance if I had found that these excise officers had been excluded from it. My chief objection is the placing of power in the hands of excise officers. Nowhere, Sir, in no code of law meant for the punishment of the offence has it been laid down that authorities other than judicial should be allowed the power of issuing summons. Take for instance the general criminal law. I do not think that a summons can be issued against any person committing a crime by anyone except the authority that will try the crime; I mean the Magistrate. He is the only person capable of issuing warrants or summons. There may be sections in the Criminal Procedure Code by which in case of a cognizable offence, a police officer may arrest a person who has committed an offence, without a warrant; that is a different thing from issuing a warrant. Arrest without warrant is quite proper and pertinent, but issue of warrant stands on a different footing and my analogy will be in conformity with the law of crime, where none but the Magistrate is empowered to issue warrant. I therefore suggest and move that in conformity with the general law of crimes in the land, the sections should be so modified as to exclude excise officers——

Mr. DEPUTY PRESIDENT: There is now no such amendment before the House.

Maulvi SYED MAJID BAKSH: Just a few minutes before a short-notice amendment was moved.

Mr. DEPUTY PRESIDENT: Are you moving a short-notice amendment?

Maulvi SYED MAJID BAKSH: No, Sir, I am only making a suggestion before the House. I do not want to move any short-notice amendment. I put my suggestion before the House and before the Hon'ble Member in charge and it is for them to accept it or reject it. I have made my position clear and it is for the Hon'ble Member to accept it or reject it. I suggest that this section should be brought in conformity with the ordinary law of the land and it should not be made drastic in the case of tobacco. Sir, that is why I oppose the clause as it is and support the amendment.

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

Mr. DEPUTY PRESIDENT: I propose to take up amendments Nos. 147-148, if the House has no objection.

Maulvi ABDUL HAKIM: Sir, I beg to move that for clause 13 the following be substituted, namely:—

"13. Any Magistrate empowered under section 19 to try offences punishable under this Act may, on the application of the Excise Officer concerned, issue a warrant for the arrest of any person who is believed to have committed any offence punishable under this Act, if such person did not appear before him on a summons previously issued against him."

Sir, I have tabled this amendment on the basis of amendment No. 101 which deals with the power of issuing a search warrant. Sir, in my previous speech I left no stone unturned in explaining why an excise officer should not be invested with the power of issuing a search warrant. I again say that the power of issuing a warrant of arrest is of a more serious character and should be exercised by the Magistrate himself to prevent serious maladministration in the Excise Department. The power of issuing a warrant of arrest should be vested in judicial officers and not in officers of the Excise Department. After all, an excise officer, however high his position may be, is an officer of the department and should not be allowed to issue a warrant of arrest, because in that case another diarchy would be created in the Excise Department. After all such a diarchy should not exist in the matter of administration of justice. I think the Hon'ble Sir John Woodhead would seriously think about this. As I have spoken at length on the subject before, I do not want to take up more time of the House. I hope the Hon'ble Sir John Woodhead will accept my amendment.

Mr. NARENDRA KUMAR BASU: Sir, I wish to draw the attention of the House to the provisions of clause 13. Clause 13 says that certain people shall be authorised to issue a warrant for the arrest of any person whom they believe to have committed any of the offences punishable under the provisions of this Bill. The acts punishable under the Bill are two; that is to say under clauses 6 and 7—selling or keeping exposed for sale tobacco except under a license; and that, of course, one can understand. Section 7 provides penalty for breach of the conditions of a license. As we have said several times it is very

enigmatic and difficult to understand what these indeterminate conditions of the license should be. It is proposed by clause 13 to give power to issue warrants of arrest not only to the Collector of Excise or the Magistrate but to certain officers of the Excise Department; and the marginal note says that this clause is on the lines of section 68 of the Bengal Excise Act. Turning to section 68 of the Bengal Excise Act, we find that it is laid down there that the Collector or any Magistrate empowered to try offences punishable under this Act may issue warrant for the arrest of any person whom he has reason to believe to have committed any of the offences punishable under sections 46, 48, 52 and 53 of the Bengal Excise Act. These sections refer to the possession of excisable articles, and they are punishable with imprisonment as well as with fines ranging from Rs. 500 to Rs. 1,000. Even in cases of that magnitude, the legislature says that it is only the Collector or the trying Magistrate that can issue a warrant for arrest. I was not aware of the fact, of which I was informed only a few minutes back, that the local Government, purporting to act under section 7 of the Bengal Excise Act, has empowered the Commissioner of Excise also to issue warrants of arrest. As I have said, I did not know that this circular or notification had been issued under section 7 of the Act. Speaking for myself with all humility, I should say that in my opinion section 7 does not empower the local Government to issue any notification like that. I do not know whether this notification empowering the Excise Officers to issue warrants of arrest under the Excise Act has ever come under review in any court of law, or even whether any Excise Officer has exercised the powers said to have been conferred upon them by this notification. I will have to tax the patience of the House for a few more minutes because I submit that there are only two clauses in section 7 which may be said by any stretch of language to refer to the point. One is clause (*c*) which says "the local Government may by notification appoint officers of the Excise Department of such classes and with such designations, powers and duties, as the local Government may think fit." That I submit cannot refer to a matter of this kind because the power must be the power given to an Excise officer under the Act. It cannot be said that the local Government can impose powers of the magistracy or the Collector on to the powers under clause (*d*) of section 7. As I am reminded under clause (*c*) it cannot possibly be suggested that the local Government may appoint officers of the Excise Department with power to send people to jail or to sentence them to jail. I submit that the words "such designations and duties as the local Government may think fit" refer to such powers as have been expressly given to Excise officers under the Act. The only other clause is that the local Government may by notification order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (*c*)

of this section shall be exercised and performed by any Government officer or any other person. That also I submit can have possibly no application in a case of this kind. Therefore I say with some confidence that if this precious notification of which I was not aware is ever brought before a court of law it is bound to be held *ultra vires*. I do not know under what advice the local Government issued that notification. However it may be it is perfectly clear that the legislature did not give this power to the local Government even in the case of offences under the Excise Act which deals with very heinous offences but we the local legislators here are asked to give power to the Excise officer in a two-penny or ha'penny case of men selling tobacco without a hawker's license. I submit that it is asking too much. My submission is that if we cannot emulate the example of the United Provinces Legislative Council which threw out a Tobacco Bill without a division it is up to us to show that we did not allow an Excise officer to be invested with powers like this which certainly ought not to go beyond the magistracy. I support the amendment.

Mr. S. M. BOSE: I think clause 13 is on the lines of clause 9 and I believe that the Hon'ble Member has already accepted amendments 132, 133 and 134. If that be so, I would suggest that the same amendment be accepted here. Under amendments Nos. 132 and 133 the words in section 9 "any Collector" have been omitted. The words "or the Excise Commissioner, or any Excise Officer not below the rank of Superintendent of Excise specially empowered by the Local Government in this behalf" have also been omitted. We find these words in section 13 and I think the rule in 13 should be made on the lines of the rules now adopted by us under section 9. I therefore think that this amendment seems to be reasonable and may be accepted.

The Hon'ble Sir JOHN WOODHEAD: As I have already said I am prepared to accept the short-notice amendment which has the effect of requiring the officer empowered under this clause to issue a summons before he issues a warrant.

As regards what Mr. Narendra Kumar Basu says I would refer him to section 7 (*2*) (*b*) of the Excise Act. I believe on examining the matter again, he will find that the notification which he has criticized, was issued under section 7 (*2*) (*b*) and also if he will refer to section 2 he will find that an excise officer means a Collector or any Excise officer or other person appointed or invested with powers under section 7. I doubt whether his allegation that this notification by the local Government is *ultra vires* is correct. I am informed it has run the gauntlet

of the courts. We did not wish to do it in the "roundabout" way adopted in the Excise Act and that is why the words "any Excise officer not below the rank of a Superintendent of Excise" were inserted in this particular clause.

I should like to explain why I think this clause is necessary. First of all as regards an investigation into an offence under this Bill, the investigating officer, apart from the power given by this clause, has no power whatsoever to compel the attendance of the accused. It is only by this clause that he will be given the power to compel the attendance of the accused before him for the purpose of investigation. He may issue a notice requiring the accused to attend but if the accused does not come before him on the issue of that notice he is helpless unless he has the power given by this clause. I trust members of the House will agree that in his own interest the presence of the accused will often be necessary, the investigating officer will wish to hear what the accused has to say in his defence. And of course if the accused appears on the issue of a notice or is available on the spot the clause will not be used. As I have said this is the only power by which an investigating officer will be able in the last resort to procure the attendance of the accused at the investigation. In a large majority of cases the accused will attend of his own accord but surely it is necessary,—clause 17 does not give this power—that the officer should be enabled to obtain the presence of the accused at his investigation. We do not propose to give this power to procure the attendance of the accused except to a Collector or Magistrate or an excise officer not below the rank of a Superintendent of Excise. That is a protection against persons being unduly harassed. I would ask the House to bear clearly in mind why this particular section which has roused so much opposition has been included in the Bill. It is this: The officers investigating offences under this Bill will not be police officers and not being police officers they have not the powers of a police officer investigating an offence except so far as these powers are expressly conferred upon them by the Bill. That is one reason why this provision appears in the Bill and a similar provision in the Excise Act.

Another reason why we require this power and why a similar provision is in the Excise Act is that it is in the power of certain officers to compound offences. If the excise officer of the prescribed rank considers that an offence should be compounded, he naturally will wish to procure the attendance of the person who is suspected of committing the offence. He can issue a notice but that notice has no legal force whatsoever. The only ultimate way he can procure the attendance of the offender in order that the offence may be compounded and in order that the accused may be saved from all the trouble of going to court, of appointing a pleader, of paying for legal advice, of bringing

his defence witnesses, etc., is by issuing the process provided for in this clause. On the face of it I admit it looks rather a drastic power. But I trust I have been able to explain why we consider this clause essential and why a similar clause appears in the Excise Act. I oppose the amendment but I will accept the short-notice amendment to be moved by Babu Khetter Mohan Ray.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Nasser.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Babu Nagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Saadatullah, Maulvi Muhammad.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Cohen, Mr. D. J.
Das, Babu Guruprosad.
Dutt, Mr. G. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. H.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Reverend, B. A.
Nandy, Maharaja Srish Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Roy, Babu Khetter Mohan.
Roy Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Satiswar Singh.
Roy, Mr. Sarat Kumar.
Roy Chowdhury, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 22 and Noes 44, the motion was lost.

Babu KHETTER MOHAN RAY: I beg to move the following short-notice amendment:—

"That in clause 13 for the words 'warrant for the arrest' the words 'summons for the attendance before himself' be substituted, and that at the end of the clause the following be added, namely:—

'If such person fails to comply with the summons, a warrant for the arrest of that person may be issued by the Collector, Magistrate, Excise Commissioner or Excise Officer issuing the summons'."

Mr. DEPUTY PRESIDENT: The question before the House is that in clause 13 for the words "warrant for the arrest" the words "summons for the attendance before himself" be substituted.

The motion was put and agreed to.

Mr. DEPUTY PRESIDENT: The question before the House is that at the end of the clause the following be added, namely:—

"If such person fails to comply with the summons, a warrant for the arrest of that person may be issued by the Collector, Magistrate, Excise Commissioner or Excise Officer issuing the summons."

The motion was put and agreed to.

The motion of Maulvi Abdul Hakim failed.

The motion that clause 13 as amended stand part of the Bill was put and agreed to.

Adjournment.

The Council was then adjourned till 10-30 a.m. on Saturday, the 6th April, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Saturday, the 6th April, 1935, at 3 p.m.

Present:

Mr. Deputy President (Mr. RAZAUR RAHMAN KHAN, in the absence of the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 89 nominated and elected members.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Tobacco (Sales Licensing) Bill, 1935.

Clause 16.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 16, line 2, after the words "Excise Officer," the words "not below the rank of Superintendent of Excise who is" be inserted.

Sir, this clause wants to give power to the Collector, or the Excise Commissioner, or any Excise Officer specially empowered by the Local Government in this behalf, ... to make investigation without an order from a Magistrate. The reason for tabling this amendment is that I have my apprehensions that these officers below the rank of Superintendent of Excise are apt to commit excesses. I must say that I have no faith even in the higher officers as well, but I am of opinion that officers of the rank of Superintendent of Excise or of a higher rank will not stoop so low as the inferior officers will do. If these inferior officers were required to obtain an order from the Magistrate, they would be very careful because they know that if a matter is brought to the notice of the Magistrate, the Magistrate will certainly weigh the evidence thoroughly and will decide the case after carefully weighing it and considering every aspect of the case. That would, therefore, be a great check upon the caprices of such officers. But if such persons are not required to obtain the written permission of the

Magistrate before they proceed with the investigations, they will act according to their whims and will bring all sorts of troubles on the poor people. These officers of the Excise and the Police Departments move in vicious circles, and, however pure they might have been before they entered those services, they cannot maintain their character after joining those services. My hon'ble friend, Sir Bijoy Prasad Singh Roy, in answer to a question the other day, said, he not only would contradict that the officers placed under his charge were above corrupt practices but that he would contradict with all the emphasis at his command that they are above corruption, although we know, Sir, that the answer he gave was not really what was at the back of his mind, but that that statement was made by him as a limb of the Government——.

Mr. DEPUTY PRESIDENT: But, Kazi Sahib, you must take him at his word.

Kazi EMDADUL HOQUE: We are prepared to take that statement as one from the Hon'ble Minister but certainly not one from Sir Bijoy Prasad in his personal capacity.

To come to the point, Sir, we have apprehensions that officers below the rank of Superintendents are apt to take to corrupt practices, and therefore I would commend my motion to the House as it would mitigate the troubles to which the people would be subjected otherwise. Mine is a very modest request, and I do not want to deprive officers of the power to make an investigation; I only want to limit this power to officers not below the rank of Superintendent of Police. The provision in the clause, as it is, may even give this power to an Excise Sub-Inspector or Assistant Sub-Inspector or even to an Excise constable, and I therefore hope the Hon'ble Member would have no objection to accepting my amendment.

Mr. NARENDRA KUMAR BASU: Sir, ordinarily it would not have been necessary to add the words proposed by Kazi Emdadul Hoque, because the words in the clause appear to be innocent enough. The clause begins by saying, the Collector, or the Excise Commissioner, or any Excise Officer specially empowered by the Local Government in this behalf. As I have said, to an unsuspecting member of this Council, it might appear that by naming the Excise Commissioner alone, the intention was that the power to specially empower an officer would be restricted to the highest officers of the Department. Only the very highest officer of the Department is named, and to an unwary member it might appear that the Government intended to give the power only to the highest officer and to those next below him. But from what we heard yesterday about the use—I will not call it misuse at the present moment, though I think it is a misuse of the powers

given under the Bengal Excise Act—of the powers of the Local Government under section 7 of the said Act, I think we ought to have this provision made more definite, and for that reason, if for no other, I support the amendment.

Mr. K. C. RAY CHOWDHURY: We are all grateful to the members on the other side of the House for a good deal of light they have thrown on the subject regarding the potential mischief that this Bill is likely to endanger, but, Sir, these continuous reflections on the subordinate officers, whether in the Excise or in the other Departments of Government, on men who are generally recruited from amongst our own people, on men of respectability, men with the highest academic qualifications, are a bit out of harmony. This is specially so because we know that we ourselves are responsible in many cases for recommending those men to Government for appointment as excise officers. These reflections on the subordinate officers that they are very dishonest, that they squeeze people, that they fleece them, is perhaps as nauseating as anything can be, and I request gentlemen on the other side to refrain from casting aspersions on them.

Mr. SHANTI SHEKHARESWAR RAY: At last the fat is in the fire. We expected that the Government of Bengal or their representatives here on the treasury benches as well as their supporters elsewhere would take our remarks in the proper spirit in which it was made, but, Sir, it appears that some of them,—one of them is the Hon'ble Sir Bijoy Prasad Singh Roy and another is Mr. K. C. Ray Chowdhury——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What have I done, Sir, that the member has referred to me?

Mr. DEPUTY PRESIDENT: Mr. Ray, you should try to confine yourself to the motion under discussion. I think it is not desirable to make vague and general insinuations against the whole body of public servants.

Mr. SHANTI SHEKHARESWAR RAY: Sir, in making these charges we do not suggest that every one in the Government service, from the Minister down to the lowest officer, is guilty of corruption or takes bribes. That is not our position. What we suggest is that there are members who are likely to become corrupt and some of them are actually found guilty of corruption. Only recently, Government admitted that some of their officers, officers belonging to the ranks of District Magistrate and Superintendent of Police, were found, as a result of departmental enquiries instituted by Government, guilty of corruption. When that is the case, it is certainly not in the fitness of things that our remarks should be taken in the way in which such

remarks have been usually treated. Sir, it is far from our intention to suggest that all Government officers are corrupt. Mr. K. C. Ray Chowdhury felt aggrieved because we have touched some of the officers whom he recommended and who were subsequently appointed. May I ask, Sir, what right he had to recommend some applicants? I was all along under the impression that a recommendation for a post is a disqualification——

Mr. DEPUTY PRESIDENT: Mr. Ray, are you not wondering away from the amendment we are now discussing?

Mr. SHANTI SHEKHARESWAR RAY: You, Sir, gave Mr. Ray Chowdhury some latitude in this matter, and I think I should be allowed the same.

Mr. DEPUTY PRESIDENT: Yes, but please try and restrict your remarks as much as possible.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I only want to suggest that remarks such as those made by Mr. K. C. Ray Chowdhury, if not treated with contempt, should be taken not very seriously.

In view of what I have said, Sir, I think it is not fair that responsible Members of Government should say that their officers are all above corruption. It is well known, Sir, that there are members in almost all the services where there are men who are apt to become corrupt, and it is for that reason that I request the Hon'ble Member to accept the amendment suggested by my friend, Kazi Emdadul Hoque.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I am sorry I cannot agree with Mr. K. C. Ray Chowdhury in his remark that members of this House are simply casting reflections on the officers of the Excise Department. The idea is that if higher officers are entrusted with this duty, we will be able to rely more upon them. It cannot be denied that people attach more importance to higher officers which is but natural. I think, Sir, there is no intention on the part of any member of this House to cast any reflection on the Excise Officers or to lower them in the estimation of the public, who are taken from our society, and who have high academic qualifications as well.

Mr. P. BANERJI: In rising to support this motion, I should first like to put one question, and that is whether it is one of the activities of the nominated members to recommend the appointment of officers in Government departments. If that is not the case, why should Mr. K. C. Ray Chowdhury, of all persons, while requesting us not to

attack these officers, casually admit that they were the persons some of whom were recommended by him. Sir, our position, on the other hand, is quite different. We have given a definite challenge to the Government about corruption in public services, but Government never ventured to take up that challenge. Be that as it may, it is naturally the business of the members of the treasury benches, that is of the Hon'ble Members and Ministers, Secretaries and Deputy Secretaries of Government, to defend these men. But I did not know that there are Sub-Deputy Secretaries of Government also on this side of the House who have helped these men to enter into Government service and whose duty, therefore, is to oppose us when we make this charge. Sir, times without number we have challenged Government that we have authentic information about corruption, but Government was never prepared to institute enquiries——.

Mr. S. M. BOSE: Can you substantiate that?

Mr. P. BANERJI: Yes, I can, though one whom I consider as * * * * * will not admit it——.

Mr. S. M. BOSE: On a point of order, Sir, I strongly protest against that remark, and I request you to compel the member to withdraw it.

Mr. DEPUTY PRESIDENT: I did not hear the remark. Mr. Banerji, I request you to come back to the amendment under discussion.

Mr. P. BANERJI: But, Mr. Deputy President, you have allowed certain members to cast reflections on us, and I submit to you, Sir, that we are entitled to pay those persons back in their own coin.

Mr. DEPUTY PRESIDENT: But, Mr. Banerji, I have given you enough latitude, and I desire that you should come back to the amendment we are discussing.

Mr. P. BANERJI: Very well, Sir. I shall now put the whole thing in a nutshell. Kazi Emdadul Hoque and Mr. Shanti Shekhareswar Ray have made certain charges against Government to which one Hon'ble Member has taken exception.

Then, Sir, yesterday I wanted to put a supplementary question to the Hon'ble Minister when he contradicted certain allegations made from this side of the House, and said that there was no corruption whatsoever, and further remarked that that was the case not in regard to one particular department of Government, but that the statement

applied to all the subordinate officers of Government in all the departments. Sir, it has become the policy of the Government to support their own officers, and it is this policy to which we object. Then, Sir, it is one thing to pass a law, and it is quite another thing to have that law administered. Sir, the question I intended to put related to the corrupt practices which exist in the Medical College——.

The Hon'ble Sir JOHN WOODHEAD: Sir, Medical College has nothing to do with the amendment under discussion. This is pure waste of time.

Mr. P. BANERJI: It is not Medical College only to which I intend to refer, but my purpose is to prove the existence of corrupt practices in general. Only recently, there was a defalcation of several lakhs in the Medical College for which the Minister in charge ought to hang down his head in shame, but instead of doing that, he had the audacity to say that there was no corruption there. That statement, therefore, of the Hon'ble Minister is a violation of truth and is far from correct. But, Sir, though this may be the policy of Government, that is of the Hon'ble Members and Ministers,—and in this matter they may have the support of nominated members who owe their existence here through the patronage of those Members and Ministers—we here represent our constituencies to whom we are bound to be faithful, and we are bound to speak out the truth.

With these words, Sir, I support the motion.

The Hon'ble Sir JOHN WOODHEAD: I protest most strongly that a member, in making a speech in this House, should describe another member as * * * * * * * * * and I hope, Sir, the House will in no uncertain terms express their strong disapproval of such words ——.

Mr. DEPUTY PRESIDENT: Well, Mr. Banerji, it is very desirable that you should withdraw that expression.

Mr. P. BANERJI: If that is your ruling, Sir, I withdraw.

The Hon'ble Sir JOHN WOODHEAD: I am glad that Mr. Banerji had at last the common sense to withdraw that remark.

As regards dishonesty among Government servants, we, on the Treasury Benches, have never maintained that every Government servant is above criticism; there are black sheep in every fold. But we strongly object to allegations which insinuate that all Government servants or the majority of Government servants are dishonest; we oppose any such charge, because it is not a true charge. To make

a charge of that character is to cast a great slur on the whole population of this province. No service, whether it is a "Government" service or a "private" service, and no profession is free from black sheep; we do not deny that there are black sheep among Government officers, but we shall resist, and resist most strongly, any allegation or insinuation that all or the majority of Government servants are dishonest or not as good as they should be. Sir, on this point I shall say no more.

Sir, the effect of this amendment would be to prevent any officer in the Excise Department below the rank of a Superintendent of Excise from investigating an offence under this Act. I ask the House to consider what the effect of that would be. It would mean that there would be practically no investigations. We have one Superintendent of Excise for each district or in some cases for two districts and if we are to limit the power of investigating offences under this Act to persons who occupy the position of a Superintendent of Excise, the Act will be inoperative. On that ground I oppose this amendment.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Karim, Maulvi Abdul.
Kasem, Maulvi Abdi.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Rahman, Maulvi Azizur.
Ray, Babu Nagendra Narayan.
Ray, Mr. Jhoti Bhabhareswar.
Rout, Babu Nagendra.
Samad, Maulvi Abdus
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basir Uddin, Khan Sahib Maulvi Muhammad.
Bass, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Cohen, Mr. D. J.
Das, Babu Guruprasad.
Dutt, Mr. G. S.
Ferguson, Mr. R. N.
Gilchrist, Mr. R. N.
Gladding, Mr. H.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Lamb, Mr. T.
Martin, Mr. G. M.
Miller, Mr. S. G.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Reverend B. A.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray Choudhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Sir Bijay Prasad Singh.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshay Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Townend, Mr. H. P. V.
Walker, Mr. B. L.
Wilkinson, Mr. M. S.
Woodhead, the Hon'ble Sir John.

The Ayes being 21 and the Noes 43, the motion was lost.

Rai Bahadur SATYA KINKAR SAHANA: Sir, may I draw your attention to the regrettable incident that has occurred in this House to-day and suggest that the remarks made by Mr. P. Banerji against Mr. S. M. Bose, viz., that * * * * may be expunged from the proceedings?

Mr. DEPUTY PRESIDENT: You need not worry about that: they will be expunged.

The motion that clause 16 stand part of the Bill was put and agreed to.

Clause 17.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 17, after the words "Excise Officer" wherever they occur, the words "not below the rank of Superintendent of Excise who is" be inserted.

Mr. DEPUTY PRESIDENT: Order, order. The House has already passed its decision on this question while discussing clause 16, and I do not think you can move your amendment.

Maulvi SYED MAJID BAKSH: But, Sir, I should like to point out that that decision was arrived at in connection with a different clause.

Mr. DEPUTY PRESIDENT: As the House has already passed its decision on the point, I rule that this amendment falls through.

The motion that clause 17 stand part of the Bill was put and agreed to.

Clause 18.

Maulvi ABDUL HAKIM: Sir, I beg to move that in clause 18, sub-clause (*1a*) be omitted.

Sir, this sub-clause says that in the case of a person arrested otherwise than by or on warrant of, a Magistrate, such bail or bond shall be for his appearance before the Collector or an Excise Officer empowered under section 16 to investigate the case. I think this portion of clause 18 is altogether unnecessary. If sub-clause (*1*) is retained, that would be quite sufficient for the purposes of this Act. In that view I think sub-clause (*1a*) is altogether redundant and should be omitted from the Bill. With these words I commend my motion to the acceptance of the House.

The Hon'ble Sir JOHN WOODHEAD: Sir, as I explained yesterday the object of clause 13 which empowers a warrant of arrest to be issued, is to enable a person, suspected of having committed an offence, to be produced before the investigating officer. Sub-clause 1(*a*) of clause 18 has been inserted in order to make it perfectly clear that a person who is arrested under a warrant, other than a warrant of a Magistrate, shall be taken either to the Collector or the Excise Officer empowered under this Act to make the investigation. It also lays down the same procedure in the case of persons arrested without a warrant, except of course persons arrested without warrants by Magistrates. The object of this sub-clause 1(*a*) is to prescribe the procedure to be followed when a person is arrested, that is the officer to whom that person is to be sent; in fact, the whole of clause 18 is a procedure clause. Sub-clause 1 says that an arrested person who is prepared to furnish bail, shall be released on bail. And then sub-clause 1(*a*) says that if he is not released on bail, he must be sent to the officer investigating the case; and then under clause 25 he must within 24 hours be sent to the court of a Magistrate. I oppose this amendment.

The motion was then put and lost.

The motion that clause 18 stand part of the Bill was then put and agreed to.

Clause 19.

The motion that clause 19 stand part of the Bill was then put and agreed to.

Clause 20.

Mr. P. BANERJI: I beg to move that in clause 20, lines 2 and 3, the words "or suspicion" be omitted.

In doing so I submit that while initiating proceedings a Magistrate shall not take cognisance of an offence punishable under this Act except on his own knowledge or suspicion or on the complaint or report of an Excise Officer or an officer empowered by the local Government in this behalf. So a Magistrate has sufficient cause to take proceedings on many grounds, *e.g.*, if he has his own knowledge or if he has received any complaint or report of an Excise Officer or an officer empowered by the local Government in this behalf. I submit, therefore, that there is no necessity here of having the words "or suspicion." Of course in exceptional circumstances he can have his own knowledge but in many cases he will seldom have this and he will have to take cognisance generally on the complaint or report of excise officers or officers empowered by the local Government in this behalf; so, how then can these words be reasonably put in this clause? Then, again,

if these words be omitted there will be no difficulty for Government to initiate proceedings against any person that has committed any offence. Therefore I move that the words "or suspicion" be omitted.

The Hon'ble Sir JOHN WOODHEAD: I am afraid, Sir, Mr. P. Banerji does not know the Criminal Procedure Code. According to section 190 of the Criminal Procedure Code a Magistrate may take cognisance of an offence upon receiving a complaint of facts which constitute such offence; upon a complaint received from a private individual or upon the report made by any police officer or upon the information received from any person other than a police officer or upon his own knowledge or suspicion that such offence has been committed. This clause 20 has been introduced in this Bill to restrict the power of a Magistrate so as to prevent him from taking cognisance of an offence upon a police report or upon a complaint made by a private individual and this has been done with the express intention of excluding the police from investigating these offences and also of excluding any private individual, who may have any grievance against somebody, from going and complaining to a Magistrate that so and so is selling tobacco without a license. That is the sole reason why this clause has been put in this Bill. The word "suspicion" occurs in clause 20 because it also occurs in the corresponding clause of section 190 of the Criminal Procedure Code. Mr. Banerji has entirely failed to understand how and why this clause 20 has been introduced into this Bill.

Maulvi SYED MAJID BAKSH: But there is a bar in section 191.

The Hon'ble Sir JOHN WOODHEAD: As regards this section Maulvi Majid Baksh also displays his ignorance. Section 191 still applies to every case in which a Magistrate takes cognisance, whether it is a prosecution under this Act or any other Act. I oppose the motion, Sir.

Mr. P. Banerji's motion was then put and lost.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 20, line 3, after the word "suspicion" the words "of which the ground shall be stated in writing" be inserted.

I do not know, Sir, whether Government will make up its mind to accept this very modest request of mine. What we really want is this; that when the Magistrate will take cognisance of an offence upon his own knowledge it is well and good, but when the Magistrate will take cognisance of an offence upon suspicion I want that the grounds of that suspicion should be stated in writing, so that the ground of suspicion be not vague and that

we may understand that there are real grounds for that suspicion. So if this amendment of mine be accepted by Government, I do not think the heavens will fall upon us or that Government will lose their prestige a whit or that the British Empire, for the matter of that, will be broken asunder or that the Britishers will have to send their bags and baggages home: nothing of that sort, Sir, will take place, because the British Government may rest assured that they will continue here for centuries after centuries, as they have created so much cleavage amongst us—

Mr. DEPUTY PRESIDENT: Order, order. Please be relevant Kazi Sahib.

Kazi EMDADUL HOQUE: All right, Sir. The request I make is simply that the Magistrate should give grounds for his suspicion and is it anything very serious, Sir, that I am asking for? I simply want to know the suspicions that impelled the Magistrate to take the action. It might be that he was misled or that there was not sufficient ground for his suspicion. If really he has any ground for suspicion it will take only a fraction of his time in writing out the ground of his suspicion. That is the only thing I am asking for and I do not think that Government should have the least hesitation in making up their mind to accept such a humble request.

The Hon'ble Sir JOHN WOODHEAD: I oppose the amendment on the same grounds as those I adopted while speaking on the previous amendment. Here we have strictly followed the wording of the Criminal Procedure Code. The words suggested in the amendment do not occur in the Criminal Procedure Code and we consider them to be unnecessary in this Bill.

The motion was put and lost.

The motion that clause 20 stand part of the Bill was then put and agreed to.

Clause 21.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 21(*a*)(*i*), line 4, after the words "furnish bail," the following words be inserted, namely—

"or the required bond as the case may be."

This is merely a verbal amendment, Sir, and I need not make a speech on it.

The Hon'ble Sir JOHN WOODHEAD: I accept the amendment, Sir.

The motion was put and agreed to.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 21 (*b*) (*i*), line 4, after the words "furnish bail," the following words be inserted, namely—

"or the required bond as the case may be."

The Hon'ble Sir JOHN WOODHEAD: I accept this amendment, too, Sir.

The motion was put and agreed to.

The motion that clause 21, as amended, stand part of the Bill was then put and agreed to.

Clause 21A.

The Hon'ble Sir JOHN WOODHEAD: With your permission, Sir, I would like to move a consequential amendment to clause 21A; it is consequential to an amendment the House made in clause 9 yesterday. I move that for clause 21A as it occurs in the Bill the following be substituted, namely:—

"21A. Save in respect of warrants issued, or articles seized, by Magistrates, articles seized under this Act shall be forwarded to the Collector or an Excise Officer empowered under section 16 to investigate the case:

Provided that if any such article cannot conveniently be so forwarded, the person making the seizure shall place the article in some place of safety and shall forthwith report the seizure to the Collector or an Excise officer empowered under section 16 to investigate the case."

This amendment, as I have said, Sir, is entirely consequential on an amendment in clause 9 which the House made yesterday and I need not make any speech in its support.

The motion was put and agreed to.

The motion that clause 21A, as amended, stand part of the Bill was then put and agreed to.

Clauses 22, 23 and 24.

The motion that clauses 22, 23 and 24 stand part of the Bill was put and agreed to.

Clause 25.

Mr. P. BANERJI: I beg to move that in clause 25(*1*), in line 4, for the words "twenty-four hours" the words "twelve hours" be substituted.

Sir, in this clause Government has fixed the minimum period of detention as 24 hours. On the face of it it appears that it is a very short time for a detention. But if we go into the details we find that

no person arrested under this Act shall be detained in custody for a longer period than in all the circumstances of the case is reasonable; and such period shall not exceed 24 hours, but if you go further into this clause you find that this 24 hours is exclusive of the time necessary for the journey from the place of arrest to the place where a Collector or an Excise Officer empowered under section 16 to investigate the case may be, and thence to the court of a Magistrate having jurisdiction to enquire into or try the case.

Sir, those who are acquainted with the state of affairs in the country-side know that to take a person from the remotest part of any district or subdivision, wherever such a person may be found committing an offence, to the nearest court of a Magistrate having jurisdiction in the matter, in many cases will mean more than 24 hours. In some cases the journey will have to be done by country boats or on foot as there may not be any railway or steamer communication. As I have submitted to you, it will take in some cases at least two or three days. So if a person has ordinarily to be brought before a Magistrate, Collector or Excise Officer empowered under this section to investigate the case, that person will have to be detained for a further period of 24 hours. Sir, after such a long journey the person is brought to a place where naturally the Magistrate or the Collector or the Excise Officer will be at the one and same place. How does it stand to reason that after the person has been brought to the Collector or Excise Officer it will take them at least 24 hours to produce him before the Magistrate. I think it will not take one or two hours. Therefore I suggest that instead of 24 hours a period of 12 hours is sufficient. In that view of the matter I have suggested this amendment which I hope the Hon'ble Member will see his way to accept. With these words I move this amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to support this amendment. This period of 24 hours is taken from the Criminal Procedure Code which provides for the period within which a person must be produced before the Magistrate in the case of investigation of cognizable offences. This section simply copies that provision. In cases like theft, robbery and murder, in which the investigation is likely to take a longer time than in a simple case of this character of offences under this Act, 24 hours may be necessary but there is no necessity whatsoever for providing for a period of more than 12 hours in cases under this Bill; 12 hours would enable the officer who has arrested a person to complete his investigation and bring that person before the Magistrate. Supposing he cannot complete the investigation within the period specified—remembering that the period of journey is excluded—in such very exceptional cases, having regard to the provisions of the Criminal Procedure Code, which have been made applicable to the provisions of this Bill under a previous clause, the investigating officer will have the power to ask for a remand. Therefore, considering that

the accused will not be detained longer in custody than is absolutely necessary, a short period will be fixed and a period of 12 hours seems as long as is necessary in such cases. Perhaps, the Hon'ble Member seems to be forgetting that in this case it is a trivial offence and not one of the nature of cognizable offences which are dealt with under the Criminal Procedure Code.

Mr. SHANTI SHEKHARESWAR RAY: Sir, we have asked the Hon'ble Member in charge to tell us why such drastic provisions are necessary in connection with this taxation measure which, at least admittedly so far as the Hon'ble Member's suggestion goes, is purely for the purpose of raising money. Sir, we are familiar with taxation measures. This is not the only taxation that is being imposed on the people of Bengal. There are various kinds of taxation; for instance, there is the income-tax imposed by the Government of India. There are taxes imposed by the municipalities and district boards. Nowhere do we find such drastic provision in connection either with the realization or with trying to check evasion of the payment of such taxes. This is a feature of the Bill which has aroused so much suspicion and so much opposition.

Mr. DEPUTY PRESIDENT: Mr. Ray, will you come to the particular provision of the Bill now before the House?

Mr. SHANTI SHEKHARESWAR RAY: Yes, Sir, I do not see the reason when such provision of detention, whether for 24 hours or 12 hours, is not necessary in connection with the realization by municipalities of their taxes in respect of trade or profession, it should be necessary to provide for such detention in respect of a tax to be imposed by Provincial Government on the sale of tobacco. Is it because the tax is to be imposed on the authority of the Provincial Government and not that of local bodies?

The Hon'ble Sir JOHN WOODHEAD: Sir, this provision is copied from the Criminal Procedure Code. As I tried to explain yesterday, the provisions of the Criminal Procedure Code do not *ipso facto* apply to investigations under this Bill, that is why a provision occurs in the Bill corresponding to that provision of the Criminal Procedure Code which limits the period for which an arrested person can be detained. I wonder, Sir, whether Mr. P. Banerji would have discovered the omission, if this clause had not been included in the Bill. I doubt whether he would, and if he had not, we would have been saved a considerable amount of discussion, of course at the expense of an incomplete Bill. As I have said, the clause is in accord with the corresponding clause of the Criminal Procedure Code which fixes 24 hours as the maximum period of detention. As in the case of the

Criminal Procedure Code, clause 25 says that no person arrested under this Act shall be detained in custody for a longer period than in all the circumstances of the case is reasonable and that such period shall not in any case exceed 24 hours. That provision is, I believe, taken almost word for word from the Criminal Procedure Code. I see no reason why we should make a distinction by fixing a maximum period of 12 hours in the case of persons charged with offences under this Bill. I will give the House an illustration of what might happen with a maximum of 12 hours. For example, suppose an accused person arrives, say, at 8 o'clock at night before the investigating officer. If a 12 hours' limit be fixed, the investigating officer will have to investigate the case during the night; the accused will be prevented from sleeping; the witnesses will be inconvenienced, all because the investigating officer has to endeavour to complete his investigation by 8 o'clock next morning. That is an example of what might result from fixing a period of 12 hours. After all, 24 hours is the maximum, not the minimum period beyond which a person cannot be detained. In these cases I much prefer to follow the Criminal Procedure Code.

Sir, I oppose the amendment.

The motion was then put and lost.

The motion that clause 25 stand part of the Bill was put and agreed to.

Clause 26.

The motion that clause 26 stand part of the Bill was put and agreed to.

Clause 27.

Mr. P. BANERJI: I beg to move that clause 27 be omitted.

Sir, this is a clause of indemnity. It provides that no suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything in good faith done or intended to be done under this Act. This has been the latest tendency of the Government and the Legislature to indemnify all its officers against whom serious complaints are made. Government desire us not to make or suggest any sweeping remarks against such officers, but the fact remains, and there is the admission of Government, that there may be some microscopic minority of cases of corruption. Admitting as they do about corruption, I fail to find what is difference of opinion between our side and that of the Government; it is only a degree of comparison, and a small degree at that. Well, it has been pointed out by many speakers on this side of the House that Government have no reason to arm the

executive and the subordinate officers with this sort of drastic powers to deal with these cases. If I may be permitted to say, it is like using a sledge hammer to kill a mosquito. It has also been explained by several lawyer members of this side of the House that there are some inaccuracies on the part of the Government. I am not a lawyer myself and I am not therefore conversant with some of the sections of the Criminal Procedure Code.

Mr. DEPUTY PRESIDENT: Mr. Banerji, will you come to your point?

Mr. P. BANERJI: That is my point. Sir, I am speaking on the indemnity clause and my submission to you is: What is the necessity for a drastic provision like this which you want to give to the officers of the Excise Department by this Bill? I consider that it is not a reasonable proposal. As has been pointed out by some speakers, and as has been pointed out by me before, there is a tendency on the part of the Government in several cases recently to indemnify some of their officers, and they might do so for the acts done or intended to be done by the Excise Officers under the provisions of this Bill. Let us scrutinize the net result of this clause. I maintain that the effect of this clause is, as the Government think, that an excess will be committed. But if any excesses are committed, what is the safeguard of the people? They cannot apply to any judiciary, they cannot take any legal proceedings against any of the officers because everything that they may do will be done in good faith or is intended to be done in good faith. May I ask the Hon'ble Member how this matter can be proved at all? We know from experience whatever Government officers have done was considered to have been done in good faith. Of course there are cases when officers were punished, but that was under very exceptional circumstances, that is, when Government find they cannot do otherwise.

The Hon'ble Sir JOHN WOODHEAD: Will Mr. Banerji please repeat that expression?

Mr. P. BANERJI: I say that there are cases when Government officers are punished for certain action of theirs but such cases are rare. I maintain that Government generally support the action of their officers. I ask Government to accept my suggestion for the deletion of the clause, if it is not their intention to help those officers who commit excesses. My submission is, how can then good faith be disproved? In all cases they will say they have acted in good faith. My submission is that in all cases of excesses these officers will be sought to be protected under this clause. So long such a provision existed only in case of the police, but now by this measure also which gives such drastic powers to excise officers, you are going to indemnify the excise officers. I fail to understand why this indemnifying clause

should find a place in this Act. As I have already explained this will prevent any person from applying to the highest judiciary in the land for protection from the excesses committed by excise officers. The poorest people will be the target of attack of the underlings of the Excise Department, so it is in the fitness of things that there should not be a clause like this to protect these officers. Government ought to delete this clause as Government say the Act is going to be a temporary measure and may take some time to come into force and as there is so much opposition against it. If that be so there is still more reason why this clause should be deleted. It has been said by the highest authorities that in England even the Ministers who, while doing their duty, cannot be punished as a particular officer, for giving bad advice to the King, may be punished as private individuals if they do wrongful action. Here the case is quite different. As it is very difficult to prove that an officer has not acted in good faith such an indemnity clause should not be put in this measure; it will act as applying a sledge hammer to kill a mosquito.

Dr. NARESH CHANDRA SEN GUPTA: The Hon'ble the Finance Member has professed very often that he will go by precedents. It is surprising however that in this clause he has given the go-bye to his precedents. He has incorporated in this Bill several provisions of the Criminal Procedure Code as to giving powers to the investigating officer and other people. But the Criminal Procedure Code does not contain any similar indemnity clause in respect of these officers who conduct the investigations under that Code. And, I speak subject to correction because I am not very familiar with the Excise Act, I do not think the Excise Act contains any similar provision. There are general principles of law which protect officers in the discharge of their duty. If anything is done to the detriment of any particular person by an officer purporting to act under this Bill, the only criminal proceedings that could be started against him would be for malicious prosecution or certain abuses of legal processes provided for in the Penal Code. All these provisions are only applicable if malice is proved. Therefore there is no necessity for excluding prosecution by a special provision in this Bill because prosecution will only lie for malicious abuse of legal process or if there is malicious or wrongful intention. Then with regard to suits; a suit for malicious prosecution or a suit for malicious abuse of legal process can also lie only where the malice of the public servant is established and not otherwise. Therefore there does not seem to be any occasion for the nervousness which has induced Government to introduce this clause into this Bill. There is no precedent either in the Criminal Procedure Code or in the Excise Act for it, and then the last clause is contradictory to certain other provisions of this Act. The last thing is that no *legal proceedings* shall lie against any person. What does it mean? Apart from

prosecution or suit, what other legal proceeding is contemplated? Is it suggested that no application for an injunction under section 144 will lie? Suppose a Magistrate is convinced that an excise officer contemplates doing under this section an act which may cause a breach of the peace and which ought to be prevented and the Magistrate thinks it fit to pass an order under section 144, is it contemplated that this should be prohibited? Of course an order under section 144 will not be issued by any Magistrate except in very, very exceptional circumstances or except when there has been a scandalous abuse of power by the excise officer. Why should this proceeding be taken away by this clause? This section goes much further than the protection which is accorded to a public servant under the Criminal Procedure Code, the Penal Code or the Civil Law. It will bar all legal proceedings. Do you or do you not bar appeals also to higher authorities? Do you or do you not bar complaints to high authorities? Looking at section 28 we find that the Collector shall in all proceedings under this Act be subject to the control of the Excise Commissioner and shall in such matters as the local Government may direct be subject also to the control of the Commissioner of the Division. It does not say that every excise officer who is empowered to exercise certain other powers under this Act would be subject to a Collector or the Excise Commissioner. But I take it that it is contemplated. Suppose an excise officer is going to do something wrong and an application is made to a higher officer under section 28 or under the other law by which subordinate officers can be controlled by superior officers. Is not that a legal proceeding? Is that also barred? The moment anything is done in good faith nothing whatsoever can be done against him; he cannot be prosecuted, if he has acted in good faith; he cannot be sued against if in good faith he has been discharging his public duty. Why bar any legal proceeding altogether? There may be for instance an application by way of mandamus in the High Court against an officer who is working in Calcutta. Why should that mandamus be excluded by section 27? You cannot exclude it because the Bengal Legislative Council has no power to restrict the jurisdiction of the High Court. But you are attempting to do it by barring legal proceedings. A legal proceeding is not a prosecution. If mandamus is prohibited application for injunction under section 144 and numerous other applications and also perhaps an application to a higher authority complaining against the molestation by the officer in question are barred. I submit that this provision is unnecessary because no suit or a prosecution would lie against a public servant acting against the law *bonâ fide*. It is wholly unjustifiable.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I support the motion. There is a saying in Bengali to the effect that the dumb has no enemy. I think the Hon'ble Member in charge of the Bill has also heard of the same and he is acting up to it. During the discussions we have

been asking him for information, we have been asking him to place the case of the Government before us, we have been asking him to explain what the position of Government is in connection with this or that provision. But as a rule he has been maintaining a sphinx-like silence on those points. Perhaps it is well that he should do that, because it is only on rare occasions that he has condescended to give us information. The information placed before the House by him has placed him from one untenable position to another. Ordinarily I would have resisted the temptation of asking for further information, but I would like to have one information which will throw some light as to the attitude of Government on this clause. The Hon'ble Sir John Woodhead has not placed before us any ground in support of this clause while introducing this Bill. It is not his case that there have been a large number of such suits, a large number of such prosecutions, a large number of such legal proceedings in this province recently with a view to harass Government officers. I challenge the Hon'ble Sir John Woodhead to tell me how many cases during the last 5 years had been instituted against Government officers on these lines. If he could place before the House the information that there had been many such cases and so there was necessity for extending this indemnity clause, one could understand the position. He has not done anything of the kind because he cannot substantiate any such statement. So far as I am aware there has been no suit of such a nature in this province. Under the circumstances it is unnecessary and undesirable to put any such clause here. We are giving extensive powers to very subordinate officers of the Police Department and particularly to the officers of the Excise Department. It does not improve matters simply because the Hon'ble Sir John Woodhead stands up on the floor of the House and states that there is no corruption among the ranks of the Government servants. We had a statement of that nature from the Hon'ble Minister of the Excise Department or the Medical Department the other day, and we have a similar statement from the Hon'ble the Finance Member to-day, but it is no use ignoring facts—I do not want to bring this matter of corruption among Government servants repeatedly before this House. As a matter of fact I have never made such allegations before the House, because I know it has a very bad effect on the officers of Government, but it is the members of Government and their supporters in this House who compel us to bring the matter so repeatedly before the House. We cannot let the Hon'ble Sir John Woodhead have the last word on the matter. It is an open secret and no amount of denial on the part of highly placed Government officials will disprove it. I am making no allegations. Under this Bill we are giving very great powers into the hands of the subordinate officers drawing only Rs. 10 or Rs. 15 a month. I do not think any protection is necessary, and if at all any protection is necessary, it is necessary not for the Government servants but for the public. It

ought to be the policy of a well-established, efficient and good Government that not only the Government servants should be above corruption but that opportunities for corruption should be as little as possible. From that point of view we have been fighting for curtailing the extensive and unlimited powers of harassment that are going to be placed into the hands of these officers, and here too we want that if such powers are to be placed in their hands, there should be some protection for the public, and there should be some fear in the minds of the Government servants that their action outside this law may be called into question. If you remove that fear from their mind, you do not improve matters, but you help to make the situation worse. Sir, it is in the interest of good Government and for the integrity of the services that I propose the deletion of the indemnity clause. There is ample protection for the Government servants under the terms of their appointment and then there is also the unwritten law of the land which gives them protection against harassment and malicious prosecution. It is not possible for any one and every one to indulge in the pastime of malicious and frivolous prosecutions. There are provisions in the law of the land which make such actions hazardous. That ought to be sufficient protection. I would ask the Government of Bengal and their representatives here to consider the matter seriously, and accept our proposal for the deletion of this clause.

Mr. S. M. BOSE: Sir, I oppose this amendment. Many members have been talking about bribery and corruption and it seems to have got into their brains. I say that this has nothing to do with this clause. The clause says that no suit, prosecution or legal proceedings whatever shall lie against any person in respect of anything done in good faith. An act done corruptly is not an act done in good faith and will not enjoy indemnity at all. So my friends, when they talk of affording protection, say something which is incorrect in point of law. This indemnity clause will not afford any shelter to such men. The rule is that if a person knows that he has no (under a statute) authority to do a certain thing and yet intentionally does that thing, he cannot shelter himself by pretending that the thing was done with intent to carry out that statute. Further, the person seeking the protection of the Act cannot claim that he purported to act under the statute if he knowingly or intentionally acts in contravention of its provisions. Here if a man does something corruptly, he is not at all safeguarded. Dr. Sen Gupta wanted to know how clause 27 fitted in with clause 28. Firstly, I say that clause 28 deals with certain executive orders. Secondly, there is the express condition which overrides the general law. Then it was said that the provision of this clause was very unusual. Nothing of the kind. Last year we passed several Acts in which similar provisions for indemnity appeared.

The Hon'ble Sir JOHN WOODHEAD: Sir, all that this clause does is to say that no suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything done in good faith. What it says is that if anything is done in good faith, no legal proceedings will stand. It has been urged that a similar provision does not occur in other Acts. This is not correct. A similar provision occurs in the Calcutta Municipal Act of 1923. It runs as follows:—"No suit shall be maintainable against the Corporation or any municipal officer or servant, or any person acting under the direction of the Corporation or any municipal officer or servant, or of a Magistrate, in respect of anything done lawfully and in good faith and with due care and attention under this Act or under any rule or bye-law made thereunder." An exactly similar provision also occurs in the Indian Factories Act. It says: "No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act." Again, an exactly similar provision was included by this Council about 3 years ago in the Bengal Opium Smoking Act, section 19 of which lays down that no suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything which is, in good faith, done or intended to be done under this Act.

I oppose the amendment.

The motion that clause 27 be omitted being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hasan.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Qassem, Maulvi Abul.
Rahman, Maulvi Aziaur.
Rai Mahasai, Maulendra Deb.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemoni.
Roy, Babu Jitendra Nath.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Mohammed.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Dr. Jogendra Chandra.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Das, Babu Guruprasad.
Dutt, Mr. S. S.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. H. R.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Hoque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. B. V.
Martin, Mr. G. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukerji, Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Goswami B. A.

g, Babu Ush Lal.
ndy, Maharaja Srie Chandra, of Kasimbazar.
mruddin, the Hon'ble Khwaja Sir.
hoom, Mr. A.
y, Rajah Khetter Mohan.
y Chowdhury, Mr. K. G.
id, the Hon'ble Mr. R. H.
y, the Hon'ble Sir Bijoy Prasad Singh.
y, Mr. Sallesuar Singh.

Roy, Mr. Surat Kumar.
Roy Chowdhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Townsend, Mr. H. P. V.
Walker, Mr. A. R.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 23 and the Noes 47, the motion was lost.

The motion that clause 27 stand part of the Bill was then put and greed to.

Clause 28.

The motion that clause 28 stand part of the Bill was then put and greed to.

Clause 29.

Maulvi ABDUL HAKIM: I beg to move that to clause 29(2)(c), fter the word "licenses" at the end, the words and figure "subject to ie restrictions referred to in section 6" be added.

At the outset I beg to point out that there has been a printing mis-ake in my amendment and that in place of section 6 it should be sec-ion 5; if this is accepted I can then go on arguing my case. The imple reason for my bringing this amendment is that when the rates f fees for licenses have been fixed in section 5 then I think the words ientioned in my amendment may be added at the end of the clause, he words namely "subject to the restrictions referred to in section 5." hope, Sir, Government will be pleased to accept my amendment.

The Hon'ble Sir JOHN WOODHEAD: The insertion of these ords is absolutely unnecessary; the rule-making power must be xercised subject to any restrictions in the Act.

The motion was put and lost.

The motion that clause 29 stand part of the Bill was then put and greed to.

The Schedule.

Kazi EMDADUL HOQUE: Sir, I beg to move that in the Schedule, n the second column, the quantities mentioned against each of the tems be trebled except in item No. (*n*).

Sir, I have listened with great attention to the very neat and ela-borate speech of the Hon'ble Member which he was good enough to regale us with at the time of introducing this measure before the Council, narrating the many incidents and circumstances which had compelled him to bring up this measure before this House. From

what he said on this particular occasion I gathered that he is as sympathetic to the poor people whom this Bill intends to tax as anyone of us. His concern for the poor people is not in any way less than that of ours, but that circumstances have forced him to come up with a measure like this and that it was not according to his own free will and choice that he brought up this Bill to have it passed through this House, but because a mandate had come from above which had become obligatory on his part to comply with.

The Hon'ble Sir JOHN WOODHEAD: Sir, this is not the third reading of the Bill.

Mr. DEPUTY PRESIDENT: Kazi Sahib, please come to your amendment.

Kazi EMDADUL HOQUE: The Hon'ble Member will kindly allow me to touch his tender feelings; it is not in any way a digression, Sir. It is a thing on which I want to build up my whole argument.

Mr. DEPUTY PRESIDENT: You can say all this at the third reading.

Kazi EMDADUL HOQUE: I may not be able to speak at all on that occasion, Sir.

Mr. DEPUTY PRESIDENT: Well, that is left to you. You are now dealing with a specific amendment and you must restrict yourself to that.

Kazi EMDADUL HOQUE: Sir, I repeat again that I want to touch the tender feelings of the Hon'ble Member and this is not a digression at all. So I hope you will please accommodate me in this respect. Now, Sir, as I was saying, I gather that he also intended that these poor people should not be taxed for nothing but that circumstances had forced him because he had to meet his budget, and he had to get the jute duty to the fullest extent for us and he apprehended that unless and until this measure is passed this jute duty cannot be expected to be available to us in its entirety. That is why he has brought this measure before this House. But he himself is sympathetic to the people who are going to be taxed under this Act.

So he is himself sympathetic towards the people who are going to be taxed under this Bill! I only hope, Sir, that his sympathy would extend at least to the extent of accepting my suggestion made in my amendment, that is to increase the quantities mentioned in each of the items in the schedule three times. That is all I want, Sir. After seeing the passage of this Bill through this Council we can only hope

to bring some redress at least to the poor people who are concerned in this matter, and I hope the Hon'ble Sir John Woodhead would see his way to accept this modest request of mine.

The Hon'ble Sir JOHN WOODHEAD: Sir, Kazi Emdadul Hoque speaks of poor people. I really cannot understand him using the word "poor" on this occasion because under the schedule a person who sells one maund of ball tobacco——

Kazi EMDADUL HOQUE: 20 seers.

The Hon'ble Sir JOHN WOODHEAD: Please do not contradict me. I did not contradict you when you were speaking.

Mr. SHANTI SHEKHARESWAR RAY: I rise on a point of order, Sir. Is the Hon'ble Member in order to address a member individually? Should he not address the Chair instead of addressing an individual member?

The Hon'ble Sir JOHN WOODHEAD: If individual members will refrain from interrupting a member when he is speaking we shall all be in a happier mood.

Mr. DEPUTY PRESIDENT: I hope members will refrain from making remarks interrupting speakers.

The Hon'ble Sir JOHN WOODHEAD: Sir, as I was saying, as regards ball tobacco, the schedule permits a retail vendor to sell to any one person within 48 hours one maund of ball tobacco, so long as the quantity of one maund is not exceeded, he remains a retail vendor. Can it be said that a person who sells one maund of ball tobacco within 48 hours to any person is a "poor" man? It beats me completely. Sir, I oppose the amendment.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Prembari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Allmazzaman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Hashem Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Podder, Mr. Ananda Mohan.
Qasem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nagendra.
Roy, Mr. Sarat Kumar.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Dr. Jogendra Chandra.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Das, Babu Guruprosad.
Dutt, Mr. G. S.
Faroqui the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. N.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Martin, Mr. G. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manmohan.
Mukherji, Babu Shirendra Nath.
Mukhopadhaya, Rai Sahib Surat Chandra.
Nag, Reverend S. A.
Nag, Babu Suh Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahoom, Mr. A.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Saileswar Singh.
Roy Chaudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Townsend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 29 and the Noes 44, the motion was lost.

Mr. DEPUTY PRESIDENT: I should like to have amendments Nos. 211 and 212 discussed together.

Mr. P. BANERJI: At this stage may I put one question to the Hon'ble Member and that is whether he is going to accept any of the amendments to this schedule. If we can ascertain this, we shall know our position and we can then move the amendments accordingly.

The Hon'ble Sir JOHN WOODHEAD: May I enquire whether the member will move all his amendments? If I know this, I shall be in a position to state my own position.

Mr. P. BANERJI: I beg to move that in the schedule, in item (*a*), "tobacco leaves or stalks" in the second column for the words "twenty seers," the words "five maunds" be substituted.

Sir, in this case I also consider 20 seers to be a very small figure. Let us for a moment examine who are the persons who will deal in these tobacco leaves and stalks. While speaking on another motion, the Hon'ble Member has told us that sales in tobacco leaves and stalks mainly take place in big *hâts* of Bengal; and in that connection he cited some names. He began from Khan Khanpur in Mr. Tamizuddin Khan's district (Faridpur) and he went up to Akhaura in the district of Tippera, where there are big *hâts* where the dealers go to sell tobacco. In opposing the amendment of Kazi Emdadul Hoque, the Hon'ble Member referred to ball tobacco and said that one maund was

exempted. He did not however make any mention of tobacco leaves or stalks, in regard to which 20 seers quantity is only exempted. This quantity of 20 seers is the minimum that can be sold to a particular person in 48 hours. These *hâts* take place for a few hours in the afternoon generally, and these meet once or twice in a week. Therefore, Sir, these dealers who attend these *hâts*—admitting for argument's sake that the suggestion of 20 seers made by the Hon'ble Member is reasonable—cannot make much profit. If they sell at 2 annas a seer they will get only Rs. 2-8 by selling 20 seers of tobacco leaf, and what profit can they make out of it? I suppose that by selling 20 seers of tobacco they get a profit of just enough to maintain their families for a day only, while *hâts* take place once or twice a week. The Hon'ble Member will naturally find that the profit will not be sufficient for even a family to go on for a day. It might be said that if this income is not sufficient for a family to go on for a day, what will they do for the rest of the week? Nobody desires that such a person should starve with his family. He ought to be allowed to make at least an income sufficient to maintain his family till the next *hât* day. If that be the desire of the House and of the Government, a sufficient quantity must be put in the schedule; the quantity must be increased. But by how much should the quantity be increased? I have submitted to you that 20 seers is quite an inadequate figure, and I ask the House to consider whether 5 maunds is a reasonable figure: personally I consider it to be the lowest figure to be put for a retail dealer. The Hon'ble Member may say that a retailer, when he has sold off the quantity he had taken with him, may come back to his house to take a fresh stock. But it is certainly not possible for him to travel 5 miles to bring back some more tobacco as by that time all his purchasers will go away. Therefore is it not reasonable that the quantity should be increased? Just consider the case of a person who has to travel 5 or 6 miles to go to a *hât* to sell tobacco leaves. Supposing he sells his 20 seers to one person, what is he going to do after that? He cannot go back to bring a fresh stock. That is not possible. If it is the desire of Government that a person should make a living out of his trade in tobacco leaves, the quantity must be increased to 5 maunds which even, I consider, is a small quantity. I therefore suggest that the quantity should be raised to 5 maunds.

Maulvi TAMIZUDDIN KHAN: I beg to move that in the Schedule, in second column of item No. (*a*) "tobacco leaves or stalks" for the words "twenty seers" the words "one maund" be substituted.

The schedule to my mind is not well drawn up from several points of view. It seems to me inexplicable why in the case of ball tobacco the quantity shown is one maund but in the case of tobacco leaves it is only 20 seers.

The Hon'ble Sir JOHN WOODHEAD: Because 20 seers of tobacco leaves make one maund of ball tobacco.

Maulvi TAMIZUDDIN KHAN: Sir John Woodhead has given one explanation. It seems to be a too mathematical explanation. I shall press my proposition from several points of view. First of all tobacco leaves are generally purchased by the poor people; for their own consumption. Of course these leaves are purchased by other persons also. I do not deny that wholesale dealers purchase in large quantities and sell to retail dealers. Ultimately these leaves are purchased for the purpose of consumption by the poor classes of people. That is one of the reasons why the quantity should be fixed at a higher level. Secondly, if we look at the price, the price of one maund of ball tobacco will not be more than that of one maund of tobacco leaves generally speaking. From that point of view also I think the quantity of 20 seers seems to be too small. There are two other amendments of a similar nature. My amendment is not very ambitious. I think it will be just and proper if the quantity is raised to one maund in the case of tobacco leaves and stalks.

Maulvi SYED MAJID BAKSH: As I have remarked during the passage of this Bill I cannot find myself in agreement with the first two provisions of the schedule, namely (*a*) and (*b*)—tobacco leaves and ball tobacco. I have more than once given my reason for it. It is not exactly right to put a tax on raw materials where——.

Mr. DEPUTY PRESIDENT: You need not discuss that. You had better come to the amendment.

Maulvi SYED MAJID BAKSH: I am discussing that. Tobacco leaf is a raw material and therefore I am discussing it. I am not in agreement with any intention to put tax on raw materials. Therefore I would have opposed it altogether, but the amendment that has been moved just now by Mr. P. Banerji is somewhat in the way of curing this defect. I quite agree that tobacco leaf is the chief commodity which not only is grown by the cultivators but is also sold by them. It is not unusual to find in the village a single cultivator producing many maunds of tobacco leaves and not 20 seers of it. Generally it is also found that the grower of the tobacco leaf is not the person who takes it to the market and sells it. He often sells it at his house. Persons who purchase these things and take to the market are those very cultivators who might not have produced tobacco, but grown other things. Therefore it is a burden on the agriculturists as a whole to put a license tax on such persons as it hinders them in carrying on a legitimate trade not exactly for the sake of profit but for the sake of maintenance. If tobacco leaves are taxed then it will certainly mean

less purchase money which a producer will get in exchange for his tobacco. When that is done I need hardly point out it is an additional hardship upon cultivators. It is in a way putting a hindrance to the cultivation of this commodity. I do not know whether sufficient data has been obtained by the Hon'ble Member to show that 20 seers of tobacco leaves make one maund of ball tobacco. I do not know whether his data is correct because it depends on other articles that are used, for example *gur* and many other things. Many other things are also added, we find, in Calcutta, so that it all depends upon the articles that are used in making ball tobacco from tobacco leaves. It cannot be laid down as a hard-and-fast rule that 20 seers of tobacco leaves will make one maund of ball tobacco. Unless there is something in the rule-making powers of Government to fix the quantity of *gur* one cannot be sure that 20 seers of tobacco leaves will make one maund of ball tobacco. Of course it would be within the competence of this Act and the Hon'ble Member may find a useful occupation in prescribing such things. But I do not think it can be laid down that 20 seers of leaves will make one maund of ball tobacco. My argument will hold good nevertheless because I do not like that these two commodities should be taxed at all. My own opinion was, when I moved about putting tax upon tobacco of certain kinds, that cigarettes, *biris*, *jarda*, *dokta* and other things and snuff which are used as a matter of luxury by comparatively richer people should be taxed because they are in a position to pay. I never meant that tobacco leaves and ball tobacco should be made taxable articles. In villages the ball tobacco which is sold is not exactly a mixture which may be used by the cultivators for smoking. The tobacco-growers sell their tobacco to a particular person, the growers are not necessarily exporters but the traders purchase these tobacco leaves from the growers and then mix them up with certain kinds of combustible articles, namely, *gur* and water, and in that form they sell it in a market. This is a day-to-day occupation with the cultivators and if the Hon'ble Member desires to put a tax on these people he will require a staff to see who are the persons who are violating the provisions of the particular law. In doing so he will require such a large staff of excise officers that ultimately it will be found that the scheme is not paying its way. The cost of detection and realisation would be so much that the actual amount realised would be comparatively small. It would, therefore, be wise on the part of the Hon'ble Member to exclude these articles altogether. If he does not do so, it would be desirable to enhance the quantity of these articles so that the small dealer who is not a cultivator may find no difficulty in carrying on his trade. The Bengal cultivator is a very simple person; his dread of law is proverbial, and that is the reason why so many complaints of bribery, etc., have been raised in this House. The real difficulty is there. The cultivators fear the Government officers like anything and if any of them points out to them any real or

imaginary difficulty, they get frightened and in order to save themselves from trouble, they at once give them some money. That is the reason, and not because there is any inherent propensity for taking bribes. I have already told you that these people are very timid, and therefore if the quantity is fixed so low, it will give an opening to the persons who are entrusted with the execution of this law to interfere with the daily occupation of these people. Any interference by these officers will frighten the poor cultivators to such an extent as to compel them to purchase their immunity from it in what way I do not suggest. But this will deprive the Hon'ble Member of the revenue which he expects, because once a man purchases his immunity, he will not pay the tax. Therefore, I suggest that if the Hon'ble Member cannot find his way to exclude these two articles altogether, he should at least increase their quantities to such an extent that it will not interfere with day-to-day activities of the cultivators and allow them to live in peace.

The Hon'ble Sir JOHN WOODHEAD: Sir, as I explained before, the object of the quantities in the schedule is to determine whether a sale is a wholesale or retail sale. As regards tobacco leaves or stalks, a sale is a wholesale sale if the vendor sells more than 20 seers to any one person within 48 hours. Our information is that the normal retail sale is in quantities of 5 seers at a time, and to be on the safe side we put it at 20 seers. The result of raising the permissible quantity to one maund is that a retail vendor can sell up to one maund to one person within 48 hours, that is, a vendor who deals in such large quantities will still pay a license fee of Rs. 3 and not one of Rs. 6. Surely the man who sells one maund within 48 hours is not a small dealer, but a large dealer. To suggest that the average retail vendor in a market, or *bazar*, or village, sells one maund within 48 hours to individual customers seems to me to be almost unbelievable. As I explained, when Maulvi Tamizuddin Khan was speaking, our information is that 20 seers of leaf tobacco make one maund of ball tobacco. I would also once more remind the House that the cultivator is not affected and can sell to whomsoever he pleases. All that this 20 seers limit means is that a person whose business is such that he sells 20 seers of tobacco leaf within 48 hours to individual persons is a wholesale dealer and is required to pay Rs. 6 a year.

I oppose the amendments.

The motion of Mr. P. Banerji was then put and lost.

The motion of Maulvi Tamizuddin Khan being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emadeddin.	Banerji, Mr. P.
Ali, Maulvi Nasser.	Barma, Babu Promhari.
Baksh, Maulvi Syed Majid.	Basu, Mr. Narendra Kumar.

Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Surat Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nashem Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Shitanda Behary.
Qassem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray, Mr. Sitanti Shekhareswar.
Rout, Babu Nanni.
Roy, Mr. Saraj Kumar.
Sen Gupta, Dr. Suresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Sai, Babu Lalit Kumar.
Sanerji, Rai Bahadur Keshab Chandra.
Sasir Uddin, Khan Sahib Maulvi Muhammad.
Bose, Mr. S.
Benjamin, Mr. N. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Cohen, Mr. D. J.
Cooper, Mr. C. R.
Das, Babu Guruprosad.
Dutt, Mr. S. C.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ferguson, Mr. R. H.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hamza, Mr. F. T.
Hussain, Maulvi Latafat.
Martin, Mr. D. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukharji, Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Mukhopadhyay, Rai Sahib Sarat Chandra.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Ray, Babu Haribansa.
Roy, Mr. Sailesswar Singh.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr. W. H.
Townsend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 31 and the Noes 44, the motion was lost.

Mr. P. BANERJI: I beg to move that in the Schedule in item No. (*b*), "ball tobacco," in the second column, for the words "one maund" the words "ten maunds" be substituted.

This question, Sir, was raised in connection with the debate on the previous motion when certain members pointed out that this figure was arrived at inaccurately, but the Hon'ble Member supported it by saying that ball tobacco was composed of 50 per cent. molasses and 50 per cent. raw tobacco. This information I consider to be not absolutely accurate. The kind of tobacco that is sold in the countryside, the kind of tobacco that is imported into Bengal and the kind of tobacco that is manufactured in Calcutta, namely, Gaya, Bistopur and Anarpur, is generally different. Maulvi Syed Majid Baksh was referring to a kind of tobacco that is manufactured in his own district but that is not the ball tobacco that is usually sold in the different *hâts* in the villages. That is a mixture of raw tobacco with molasses.

Now, Sir, let us see what is the percentage of the different ingredients in that mixture. So far as my information goes, it is that 10 seers of molasses in a maund is usually given in this mixture of tobacco. There is another variety and in this variety there are 30 seers of tobacco leaf in a maund of ball tobacco and that is the tobacco as was described by Maulvi Syed Majid Baksh and that is sold in the countryside. There is another variety also which the Hon'ble Member mentioned and that is perhaps the tobacco sold in the streets of Calcutta. In that case the composition is a mixture of jack-fruit and plantain in order to make the tobacco sweeter. Khan Bahadur Abdul Momin suggests that pineapple also forms part of the ingredients of such tobacco. It may be so, but that is not within my information. Khan Bahadur might have this experience and it is just possible that some sort of scent is given in order to make the tobacco very delicious smoking. One of my friends suggests that musk may be one of the ingredients. It may be so, Sir, and there may be a thousand and one things which compose this ball tobacco. What I maintain is that the tobacco that is sold particularly in Calcutta may contain musk and other scented things but not certainly that which is sold outside Calcutta and in the different *bazars* and *hâts* of the province. Therefore what I say is this, that Government in this particular matter has committed an anomaly which must be removed, because while it provides in the case of leaf tobacco 20 seers, naturally in a maund of ball tobacco the leaf is more than 20 seers. I explain this to you because the Hon'ble Member may contend that it is not so. But it is so, Sir, and I will prove it by other facts and figures. For instance, a seer of raw tobacco leaf is usually sold, as I have mentioned, at annas 2 per seer, and if 50 per cent. of molasses is put there that means another seer but the lowest figure of that is also annas 2; so it comes to annas 4. In this way the tobacco that is manufactured is 50-50, half tobacco and half molasses. Accepting the argument of the Hon'ble Member you will find that there will be no profit because we find that in the villages ball tobacco is sold at annas 4 per seer; so if they sell it at annas 4 per seer they naturally expect some profit, but if 50 per cent. of molasses is also put into it there is no margin of profit whatsoever. Therefore it stands to reason that they do not put 50 per cent. of molasses in ball tobacco because that is dearer. Government might reply that this year during the winter months molasses were selling at one anna per seer, but they should not forget that the price at which this commodity is sold during the season time is doubled and trebled; for instance, during the rains when there is no manufacture of molasses in the country. So the price of molasses goes high during these months and therefore the price at which it is sold in the countryside will not bring them any profit. If we are to accept the information supplied by the Hon'ble Member the composition of the ball tobacco comes to be 50 per cent. molasses and 50 per cent. leaf tobacco. But, Sir, I

have sufficiently proved to you that the facts are otherwise. If the position of Government in (*a*) is 20 seers, then they should certainly stick to it and not increase it, but here in this case it is increased. I may have put a very low figure, but we thought that Government would be prepared to accept the very modest motion of Maulvi Tamizuddin Khan, but Government did not accept that motion even.

Mr. DEPUTY PRESIDENT: It is not true to say that Government did not accept it: it was the House that decided otherwise.

Mr. P. BANERJI: I know that, Sir, but we could have avoided this difficulty if the Hon'ble Member had accepted his motion. My submission is not that the House turned down the proposal but that the Hon'ble Member might have accepted it and there would be no wasting the time of the Council as the Hon'ble Member has often complained. I therefore feel that this is a very modest suggestion as, if ball tobacco is not sold in balls as it is in Calcutta, how this difficulty can be met of applying it uniformly to all sorts of ball tobacco? Maulvi Syed Majid Baksh has said that ball tobacco is manufactured in a different method in his own district and in the district of Rangpur. I know this so-called ball tobacco is a mixture not certainly sold in balls. With these words, Sir, I move my motion.

The Hon'ble Sir JOHN WOODHEAD: Mr. P. Banerji challenges my suggestion that 20 seers of raw tobacco make 40 seers of ball tobacco, but, Sir, that would appear to be also Mr. Banerji's opinion, for his amendments are 5 maunds tobacco leaves and 10 maunds ball tobacco. It seems to me, Sir, that Mr. P. Banerji either did not know anything about the subject when he tabled his amendments proposing 5 maunds leaf tobacco and 10 maunds ball tobacco, or that he has since changed his mind. Ball tobacco is usually issued by the manufacturers in half-maund tins; and so, to be on the safe side, we fixed one maund. Is a person who sells tobacco costing somewhere about Rs. 8, within 48 hours to a single person, a poor vendor? I certainly cannot believe that and I doubt whether there is any village shop in Bengal which sells a maund of ball tobacco to a single person within 48 hours. I oppose the amendment, Sir.

The motion was put and lost.

Adjournment.

The Council was then adjourned till 3 p.m. on Monday, the 8th April, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 8th April, 1935, at 3 p.m.

Present:

Mr. Deputy President (Mr. RAZAUR RAHMAN KHAN, in the absence of the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 105 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Vacancy in educational institution.

*108. **Maulvi ABDUL GHANI CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether there is any standing order that, whenever any vacancy arises in any educational institution, it should be duly advertised?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether any advertisement was made for the post of store-keeper of the Ahsanullah School of Engineering at Dacca? If not, why not?

(*c*) Is it a fact—

(*i*) that an overaged Hindu sub-overseer has been temporarily appointed to fill up the post of store-keeper in the said school in preference to Muslim overseers; and

(*ii*) that the Principal is trying to make that overaged gentleman permanent?

(*d*) If the answer to (*c*) is in the affirmative, what are the reasons?

(*e*) Will the Hon'ble Minister be pleased to state whether the standing order of the Government that at least 33 per cent. of clerical appointments should be held by Muslims is applicable to the said School of Engineering also?

(*f*) If the answer to (*e*) is in the affirmative, what steps, if any, do the Government propose taking against a breach of the said rule in the said institution?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Khan Bahadur M. Azizul Haque): (*a*) Yes.

(*b*) No, but the Principal has been asked to advertise it.

(*c*) and (*d*) Enquiries have been made from the Principal.

(*e*) Yes.

(*f*) In view of the reply to (*b*) the question does not arise.

Excise shops at Pabna.

***109. Khan Bahadur Maulvi MUAZZAM ALI KHAN:** (*a*) Will the Hon'ble Minister in charge of the Revenue (Excise) Department be pleased to state—

(*i*) how many Excise shops are there in the district of Pabna at present;

(*ii*) how many of them have been settled with the non-Muslims; and

(*iii*) how many have been settled with the Muslims?

(*b*) Is there any departmental circular to the effect that an adequate number of Excise shops should be settled with Muslim vendors?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the said circular order is being strictly followed in Pabna?

(*d*) If there is no such circular, is the Hon'ble Minister considering the desirability of issuing orders for the appointment of a sufficient number of suitable Muslims as Excise vendors?

MINISTER in charge of REVENUE (EXCISE) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) 44.

(*ii*) 36.

(*iii*) 8.

(*b*) No, but there is a circular instructing Collectors to give careful consideration to applications of Muslims for Excise shops.

(*c*) Government have no reason to believe that these instructions are not being followed.

(*d*) Government do not consider it necessary to issue fresh instructions modifying those already issued.

Maulvi ABDUL KARIM: Will the Hon'ble Minister be pleased to state why out of 44, only eight are Muslims; and how is it then that the instructions have been carried out?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the selections are made by the District Magistrates, and probably there were not sufficient Muslim candidates.

Maulvi ABDUL KARIM: Will the Hon'ble Minister be pleased to enquire the reasons why so small a number of Muslim candidates were selected in the matter of settlement of these shops?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think that any useful purpose will be served by enquiring into the matter. It was only recently that the Mussalmans have ceased to be very orthodox about taking licenses for liquor shops, and I am sure the District Magistrates would have accommodated more Muhammadan candidates if suitable people were forthcoming.

Maulvi SYED MAJID BAKSH: Were these shops sufficiently advertised before settlement?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The practice is not to advertise.

Rai Bahadur SATYA KINKAR SAHANA: Have many Mussalmans applied for Excise shops?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As I stated, only recently more Mussalman candidates have been forthcoming, but previously they did not apply for such shops.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state whether sufficient publicity was given to the fact that the shops were vacant?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I cannot say whether in this particular case sufficient publicity was given or not, but usually vacancies are widely known.

Dr. NARESH CHANDRA SEN GUPTA: Is it not a fact that the really suitable Muhammadan candidates for Excise shops are the persons who have no religious scruples?

(No reply was given.)

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Dacca Female Training School.

66. Maulvi NURAL ABSAR CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the Dacca Female Training School—

(*i*) how many Hindu and Muslim students were admitted, year by year, during the last three years;

(*ii*) how many have been selected from the different communities for admission this year;

(*iii*) how many of them are Muslims; and

(*iv*) the number of Muslim students selected this year compared with that selected during the last three years?

(*b*) Will the Hon'ble Minister be pleased to state what minimum qualification is required for admission into this and other female training schools in Bengal?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: (*a*) (*i*):—

Year.	Hindus.	Muslims.
1934	... 13	11
1933	... 22	6
1932	... 14	10

(*ii*) 18.

(*iii*) 3.

(*iv*)

Year.	Muslims.
1935	.. 3
1934	... 11
1933	... 6
1932	... 10

(*b*) Candidates who have read a full year in the Matriculation Class (or its equivalent) are allowed to enter for the Senior Certificate. Those who have passed class VI of a middle or high school are allowed to enter for the Junior Certificate, provided they pass an entrance examination.

Nurses in the Campbell Hospital.

67. Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing—

(*i*) what is the total number of nurses now employed in the Campbell Hospital;

(*ii*) how many of them are Indians;

(*iii*) how many of them are Anglo-Indians or Europeans;

(*iv*) how many of each nationality are qualified and passed nurses possessing diplomas from the Medical Faculty or any other recognised institution;

(*v*) how many of these nurses were appointed during the period Lt.-Col. Kapoor has been Superintendent of the Hospital;

(*vi*) how many of those referred to in (*v*) are—

(*a*) Bengalis;

(*b*) non-Bengalis; and

(*vii*) how many of the nurses appointed by Lt.-Col. Kapoor are trained and qualified, possessing diplomas?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*i*) 54.

(*ii*) 4.

(*iii*) 46 Anglo-Indians and 4 Europeans.

(*iv*) Indians nil, Anglo-Indians 3, and Europeans nil.

(*v*) 33.

(*vi*) (*a*) 1.

(*b*) Non-Bengali Indians 2 (one Assamese and one Madrassi), Anglo-Indians 27 and Europeans 3.

(*vii*) The three Anglo-Indian nurses mentioned in the answer to (*iv*).

Chandpur Local Board Election.

68. Maulvi NURAL ABSAR CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact that the 23rd January, 1935, was fixed as the date for filing objections to the list of voters for the local board election at Chandpur in the district of Tippera and the 30th January as the date of hearing the objections and 2nd February as the date for the scrutiny of the nomination papers?

(*b*) Is it a fact that the nomination papers of the following gentlemen were cancelled by the returning officer at the time of scrutiny:—

(1) Abdul Huq (police-station Hajigunge).
(2) Khan Bahadur Abidur Reza Chowdry (police-station Faridgunge).
(3) Ali Reza Chowdhury (police-station Chandpur).
(4) Nawab Khan (police-station Chandpur).
(5) Mahbubol Huq (police-station Chandpur).
(6) Amin Mia (police-station Hajigunge); and
(7) Rupchand Saha (police-station Kachua)?

(*c*) Is it a fact that all these nomination papers were revised on the 5th February, 1935, with the exception of that of Mohammed Hoshain Chowdhury?

(*d*) Why were the nomination papers revised with the exception of one?

(*e*) Has the Hon'ble Minister received reports that the Subdivisional Officer of Chandpur, the Circle Officer, Sadar subdivision, and the Officer-in-charge of the Kotwali police-station unduly interfered with the election of the local board?

(*f*) Is it a fact that a petition has been submitted to the District Magistrate by Maulvi Ashrafuddin Ahmed Chowdhury of Comilla making certain definite allegations against the officers mentioned above?

(*g*) Are the Government considering the desirability of inquiring into the allegations and taking the necessary steps to prevent a recurrence?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) to (*f*) A report has been called for from the District Magistrate on the points raised and the information, when received, will be communicated to the member.

(*g*) On receipt of the report from the District Magistrate, Government will consider the desirability of taking such steps as may be considered necessary in the matter.

Bench Clerk of the District Judge and Record-Keeper in the Pabna-Bogra Civil Courts.

69. Dr. JOGENDRA CHANDRA CHAUDHURI: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing for the Pabna-Bogra Civil Courts—

(*i*) how many graduates are at present employed in the ministerial establishment; and

how many of them are—

(1) Muhammadans, and

(2) Members of the Scheduled Castes?

(*b*) In what year were graduates first appointed?

(*c*) Have the graduate ministerial officers rendered satisfactory service?

(*d*) How many outsiders have been appointed directly in the higher grade since the graduates of this district were first appointed to the ministerial posts of the Pabna-Bogra Civil Courts?

(*e*) Is it a fact that two promotions in the grade of Rs. 80—4—140—one as Bench Clerk of the District Judge and another as Record-Keeper —were made by promoting officers very junior in service?

(*f*) If the answer to (*e*) is in the affirmative, will the Hon'ble Member be pleased to state what meritorious services or special claims had they to their credit for such promotion?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) (*i*) 23.

(*ii*)(1) 6 and (2) 2.

(*b*) 1897.

(*c*) Not in all cases.

(*d*) Seven outsiders were appointed directly in the higher grade since 1897.

(*e*) No. The post of Bench Clerk of the District Judge has not been filled up permanently yet. Trial is being given to some promising clerks for making a proper selection.

The post of Record-Keeper was filled up by promotion in July, 1934, from the next lower grade (Munsif's Sheristadars). There were 3 officers in the grade above the Record-Keeper selected.

(*f*) Selection was made in consideration of merits and claims of all concerned.

Post of Head Clerk of the District Judge's Court, Pabna-Bogra.

70. Dr. JOGENDRA CHANDRA CHAUDHURI: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that the post of the head clerk in the office of the District Judge of Pabna-Bogra was advertised prior to the retirement of the then incumbent Babu Probhat Chandra Ganguli?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to lay on the table a statement showing:—

(*i*) how many applications were received in response to the said advertisements; and

(*ii*) how many of these applicants were inhabitants of—

(*1*) the Pabna-Bogra district; and

(*2*) other districts of Bengal;

(*iii*) how many of those referred to in (*ii*) were (*1*) Muhammadans, (*2*) the members of the Scheduled Castes, and (*3*) M.A., B.Ls., M.As., or M.Scs., B.A., or B.Scs., G.D.As., M.Coms. and B.Coms., respectively;

(*iv*) the name, qualification, previous office experience and district of the candidate with home address who was appointed to the post; and

(*v*) the special reasons for his selection for this appointment?

(*c*) Is it a fact that proceedings for this appointment were recorded in the order book by the District Judge in the presence of the Sadar Subdivisional Officer of Pabna and also Mr. K. B. Sen, Subordinate Judge of Pabna?

(*d*) Will the Hon'ble Member be pleased to lay on the table a copy of the said proceedings?

(*e*) Is the District Judge empowered to make such appointments independently under the Bengal, Assam and Agra Civil Courts Act of 1887?

(*f*) If the answer to (*e*) is in the affirmative, why were the proceedings for appointment in this case recorded in the presence of those two officers?

(*g*) Will the Hon'ble Member be pleased to state whether this sort of procedure has been adopted by any of the District Judges in Bengal in making such appointments?

(*h*) If the answer to (*g*) is in the affirmative, will the Hon'ble Member be pleased to state the name or names of the District Judge or Judges and the district or districts?

(*i*) Will the Hon'ble Member be pleased to state—

(*1*) why the claims of the members of the Scheduled Castes and Muhammadans were not considered in making the appointment of the head clerk; and

(*2*) why was a new man preferred for the post when qualified Hindu and Muhammadan officers in service were available for the same?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) Yes.

(*b*) (*i*) 479.

(*ii*)(*1*) 60 and (*2*) 392.

(*iii*)(*1*) 50, (*2*) 6 and (*3*) a statement is laid on the table.

(*iv*) Babu Anadikesh Mukherji of 16, Nabin Sarkar Lane, Calcutta. B.Com. (Cal.) stood first in 1st class. Also passed the Preliminary Law Examination. Served as Probationary Assistant Superintendent under the Calcutta Port Commissioners for 4 years.

(*v*) He was considered to be the most suitable candidate.

(*c*) No, selected candidates were interviewed in presence of the officers named.

(*d*) No. This is confidential.

(*e*) Yes.

(*f*) Does not arise.

(*g*) No: District Judge has adopted the sort of procedure indicated in the questions.

(*h*) Does not arise.

(*i*)(*1*) These were considered.

(*2*) He was found to be the most suitable of all the candidates including those belonging to the office.

Statement referred to in the reply to unstarred question No. 70 (b) (iii) (3), showing number of M.A. B.Ls., M.As., M.Scs., etc., who applied for the post of Head Clerk-Translator of the District Judge's Court, Pabna.

M.A B. Ls. (including M.Sc., B.La.)	26
M.As.	79
M.Scs.	0
B.As.	293
B.Scs.	35
G.D.A.	1
M. Coms.	2
B. Coms.	18

Ministerial establishment of the Pabna-Bogra Civil Courts.

71. Dr. JOGENDRA CHANDRA CHAUDHURI: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that in December last an advertisement was issued by the District Judge of Pabna-Bogra inviting applications from the members of the depressed classes for a post on the ministerial establishment of the Pabna-Bogra Civil Courts?

(*b*) Is it a fact that the said post was filled in January, 1935, by appointing a son of the Naib Nazir of Pabna District Judge's Court?

(*c*) Is the Hon'ble Member aware that the said Naib Nazir is a member of the Ghatakarpur caste?

(*d*) Will the Hon'ble Member be pleased to state—

(*i*) how many applications for this appointment were received from members of the Scheduled Castes; and

(*ii*) how many of them were granted interviews?

(*e*) Is it a fact that three Ghatakarpur candidates only were called for interviews?

(*f*) Is the Hon'ble Member aware that the Ghatakarpurs are not members of the Scheduled Castes?

(*g*) If the answer to (*f*) is in the affirmative, why was a member of the Ghatakarpur Caste appointed when qualified candidates from the Scheduled Castes were available for the purpose?

(*h*) Will the Hon'ble Member be pleased to lay on the table a statement showing the number of the members of the Scheduled Castes who are at present employed in the higher and lower grade ministerial establishments in the Pabna-Bogra Civil Courts with the following details:—

(*i*) their names;

(*ii*) the caste to which each belongs;

(*iii*) their qualifications;

(*iv*) the length of their services; and

(*v*) the history of their services?

(*i*) What steps, if any, is the Hon'ble Member proposing for strict compliance with the instructions issued or declarations made by the Government from time to time in respect of the Scheduled Castes in Bengal?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) Yes.

(*b*) The appointed person is a son of the Nazir's clerk.

(*c*) The Nazir's clerk claims to be a member of the Kumar caste.

(*d*) (*i*) 30.

(*ii*) 3.

(*e*) It is not a fact. The candidates interviewed belonged to Kumar caste.

(*f*) Yes.

(*g*) Does not arise.

(*h*) A statement is laid on the table.

(*i*) Government require periodical statements to be submitted by the District Judges.

Statement referred to in the reply to clause (h) of unstarred question No. 71, showing particulars regarding ministerial officers in the civil courts at Pabna and Bogra belonging to the depressed classes.

Name.	Castes.	Qualifications.	Length of services.	History of services.
1. Babu Satindra Mohan Pramanik ..	Adi Koibarta ..	B.A. ..	18 years ..	A compilation of detailed history of services will involve a laborious enquiry which the Government regret they are not prepared to undertake.
2. Babu Satish Chandra Saha ..	Suri ..	Read up to Entrance ..	26 years 4 months ..	
3. Babu Krishna Kumar Sarkar ..	Mahishya ..	Passed Entrance ..	26 years 5 months ..	
4. Babu Purna Chandra Paul ..	Kumar ..	Read up to 3rd Class ..	23 years 11 months ..	
5. Babu Upendra Nath Saha ..	Suri ..	Passed I.A. ..	19 years 11 months.	
6. Babu Nirmal Chandra Sarkar ..	Mahishya ..	Read up to I.A. ..	15 years 9 months.	
7. Babu Surjya Kumar Sarkar ..	Namasudra ..	Ditto ..	13 years 3 months.	
8. Babu Kishori Mohan Das ..	Adi Koibarta ..	I.A. ..	15 years 6 months.	
9. Babu Nagendra Nath Karmakar ..	Kumar ..	Read up to I.A. ..	15 years 3 months.	
10. Babu Surendra Mohan Pramanik ..	Adi Koibarta ..	B.A. ..	14 years 4 months.	
11. Babu Nabadwip Chandra Mondal ..	Namasudra ..	Matriculate ..	10 years 1 month.	
12. Babu Sudhir Kumar Paul ..	Kumar ..	Ditto ..	2 months.	

Pabna-Serajganj Road.

72. Dr. JOGENDRA CHANDRA CHAUDHURI: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that a resolution urging the Public Works Department to take up the metalling and consolidation of the Pabna-Serajganj Road *via* Bera, out of the proposed loan fund from the petrol tax and motor vehicles tax, with a view to open up the undeveloped areas of the district of Pabna by increasing motor traffic was adopted at a conference of the Presidents and members of the Union Boards of the district of Pabna held on the 25th January, 1934, and that a copy of the said resolution was forwarded to the Government for consideration?

(*b*) Is it a fact that largely signed public petitions have been submitted to the Secretary, Bengal Provincial Road Board, in the year 1934-35, requesting the board to take up the construction of Pabna-Bera Road as a road of provincial importance?

(*c*) Is it a fact that this road has been recommended as a road of first-rate importance in the interests of public traffic and for administrative purposes by the several Commissioners of the Rajshahi Division as well as by the Collectors of Pabna?

(*d*) Is it a fact that this road is a continuation of Ishurdi-Pabna Road which is now under consideration?

(*e*) Is it a fact that a large number of motor vehicles ply on the Pabna-Bera Road during hot weather and winter months of every year and a large number of passengers daily resort to motor services on this road?

(*f*) Are the Government considering the desirability of taking up the metalling of this road at an early date?

(*g*) If the answer to (*f*) is in the negative, will the Hon'ble Minister be pleased to state the reasons why?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) and (*b*) Yes.

(*c*), (*d*) and (*e*) A report has been called for from the District Magistrate on these points and the information when received will be communicated to the member.

(*f*) and (*g*) The question does not yet arise. The proposed scheme has been forwarded to the Special Officer, Road Development Projects, for examination in connection with a comprehensive programme of road development to be prepared by him and a decision with regard to it will have to wait till the final report and programme for road construction in the province have been prepared.

Time-scales of pay for the additional staff of the Ahsanullah School of Engineering, Dacca.

73. Rai Bahadur KESHAB CHANDRA BANERJI: (*a*) Is the Hon'ble Minister in charge of the Education Department aware of the grievances of the additional staff employed in connection with the duplication of the Upper Subordinate classes at the Ahsanullah School of Engineering, Dacca, regarding the introduction of time-scales of pay for them?

(*b*) Is it a fact that the employees concerned submitted several representations drawing attention of Government to the hardship caused by the delay in giving effect to the time-scales of pay?

(*c*) Is it a fact that the Governing Body of the School strongly urged the introduction of time-scales of pay for these employees as being fair and reasonable having regard to the fact that they were appointed as far back as 1921-1924 and subsequently confirmed in their appointments in July, 1925?

(*d*) Is it a fact that in spite of the unanimous recommendation of the Governing Body in this behalf at their meeting held on 15th February, 1927, and subsequently reiterated on 28th September, 1928, 5th March, 1929, 28th August, 1933, 18th April, 1934, and 18th September, 1934, nothing has yet been done to put the scale into operation?

(*e*) Is it not a fact that the administrative approval of Government was accorded to the same in terms of the Education Department order No. 2252Edn., dated the 17th July, 1929?

(*f*) Is the Hon'ble Minister aware that since the above scale was administratively approved, the cost of the scheme is being included every year in the schedules?

(*g*) Will the Hon'ble Minister be pleased to state—

(*i*) why the scheme is not being put into effect; and

(*ii*) why have the officers been allowed to remain on fixed rates of pay from the beginning of their service?

(*h*) Is the Hon'ble Minister aware that their contemporaries in Government service have been enjoying incremental rates of pay?

(*i*) Is it a fact that two of the incumbents have since died and that the Director of Public Instruction in his letter No. 1032/35-GA-33, dated the 17th November, 1933, pressed the cases of the officers as being very hard and strongly recommended "some sort of relief" for them?

(*j*) Is it a fact that the employees referred to above—

(*i*) approached the Director of Public Instruction long ago for sanction to an *ad interim* allowance owing to delay in the adoption of the time-scales of pay; and

(*ii*) a representation to the Director of Public Instruction praying for exemption from the emergency cut in their salaries in consideration of the fact that they earned no increment since their appointment?

(*k*) Is it a fact that the Director of Public Instruction suggested scales for these officers which were the same as those sanctioned by Government for new entrants after the 21st July, 1931, and wanted to know the cost during the first year of the scheme in the event of its being introduced in 1935-36?

(*l*) Is it a fact that in the Education Department letter No. 2346 Edn., dated the 23rd August, 1934, the scales to which administrative sanction was given and which were to be given effect to retrospectively from the date of appointment of the officers were subsequently modified and new scales fixed as in the case of officers appointed after 21st July, 1931, and these again were proposed to be given effect to from March, 1935, and not from the dates of their appointment?

(*m*) Has provision been made in the Budget for 1935-36 for the time-scales of pay for the additional staff?

(*n*) If the answer to (*m*) is in the negative, will the Hon'ble Minister be pleased to state why have no time-scales been provided for?

(*o*) Is the Hon'ble Minister aware that Government stand committed to the introduction of the time-scales with effect from the date of confirmation of the employees in their respective posts?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: (*a*) and (*b*) Yes.

(*c*) and (*d*) Government are not prepared to publish the recommendations of the Governing Body. It has been decided to give the additional staff one increment in the revised scale of pay with effect from 1st March, 1935.

(*e*) and (*f*) These are matters of inter-departmental procedure, on which Government are not prepared to furnish any information.

(*g*) On account of financial stringency.

(*h*) Yes, he believes that this is generally the case.

(*i*) Two of the incumbents have since died.

Government are not prepared to publish their correspondence on the subject.

(*j*) (*i*) Government have no information on the subject.

(*k*) Yes.

(*l*) and (*l*) Government are not prepared to publish their correspondence or its contents.

(*m*) and (*n*) The member is referred to the replies to (*c*) and (*d*).

(*o*) No.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state, with reference to the answers to (*c*) and (*d*), whether the increment proposed to be given will be according to the new scale or the revised scale of pay as originally fixed in 1925?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: That question has been definitely answered, and it has been decided to give the staff one increment in the revised scale of pay.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Tobacco (Sales Licensing) Bill, 1935.

(The discussion on the Tobacco Bill was then resumed.)

The Schedule.

Mr. P. BANERJI: Sir, I beg to move that in the Schedule, in item No. (*c*), "cigarettes" in the second column, for the words "one thousand," the words "ten thousand" be substituted.

Sir, I do not want to make any speech on the motion, but simply move it.

The Hon'ble Sir JOHN WOODHEAD: Sir, I also oppose the amendment without a speech.

The motion was put and lost.

Babu AMULYADHAN RAY: I formally beg to move that in the Schedule, the following item be omitted, namely:—

"(d) ... ... One thousand."

The Hon'ble Sir JOHN WOODHEAD: Sir, I formally oppose the amendment, and in doing so, I should like to explain that we intend to exempt persons from taking out a license for the manufacture of *biris* in their own houses, provided they sell the *biris* to licensed vendors only.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Promhari.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Mohammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Karim, Maulvi Abdul.
Khan, Maulvi Tamizuddin.
Malik, Mr. K.
Rahman, Khan Bahadur A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rauf, Babu Hassel.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Kochab Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Basu, Mr. S.
Baujamia, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chakbavy, Rai Bahadur Ram Dev.
Cohen, Mr. D. J.
Das, Babu Beroprasad.
Dutt, Mr. B. S.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Lamb, Mr. T.
Martin, Mr. O. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Monomohan.
Mukherji, Babu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nag, Babu Sub Lal.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rai Mahasai, Maniudra Deb.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. R.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Ray Chaudhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kishar.
Sen, Rai Sahib Akshoy Kumar.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 19 and the Noes 45, the motion was lost.

Mr. DEPUTY PRESIDENT: I should like to take up items 218, 219 and 220 together.

Mr. P. BANERJI: Sir, I beg to move that in the Schedule, in item No. (*d*), "*Biris*," in the second column, for the words "one thousand," the words "one lakh" be substituted.

Sir, I naturally expected that as the Government is anxious to give some relief to the poor, they would accept such of our amendments as relate to *biris* and *gul*, but I now find that the Hon'ble Member is not in a mood to accept any of our amendments——

The Hon'ble Sir JOHN WOODHEAD: Sir, I have not yet said anything about the amendment we are now discussing.

Mr. P. BANERJI: Sir, we have tabled many amendments, and yesterday I raised the question that if the Hon'ble Member would kindly give us a gesture as to which of our amendments he would be prepared to accept——

The Hon'ble Sir JOHN WOODHEAD: Sir, I accept the suggestion about *gul*.

Mr. P. BANERJI: Sir, the Hon'ble Member is prepared to accept the amendment about *gul*, because that thing is never sold and no revenue can be derived therefrom.

As regards *biris*, it is a very cheap article, and it is obvious that exemption should be given to a very big number. There are two other amendments also, and they limit the exemption to 5,000 and 2,000 *biris*. If, Sir, the Hon'ble Member is not prepared to accept my amendment, I should be pleased if he would accept the modest amendments proposed in the other two items which will be moved by Mr. Mukunda Behary Mullick and Maulvi Tamizuddin Khan. This *biri* industry is a new one in this country and has given suitable employment to many men. I have pointed out times without number that men who were pick-pockets in Calcutta at one time have now taken to this industry and have become peaceful citizens. Then, Sir, this industry has spread from the town to the remotest parts of the villages, and there also this industry is thriving well. It has solved the unemployment problem to a greater extent than all the activities of the Government have been able to do so far. It is well known, Sir, that there are hundreds and thousands of unemployed in Bengal, and here the Government are not as generous to them as the Government in Great Britain is. While the unemployed in Great Britain receive doles from Government, people in this country get nothing whatsoever from that source, and they have to depend for their existence on such indigenous industries as *biri* manufacture. Even widows in the countryside have been able to earn their livelihood from this industry. It was for these reasons that we expected that Government would not be so hardhearted as to bring *biris* within the purview of this Act. As we have often said, the principle of every constitution is to see that the poor are not heavily taxed. The principle of taxation is that the richer section should be taxed, and as far as possible the poor should not be. But in this particular case, as the Hon'ble Member is aware, the poorest are going to be taxed. It was for that reason that I tabled this amendment in order to give some relief to the poor. Most of the dealers who are merely retailers will not come within that term if the proposal of the Hon'ble Member is accepted. But if my amendment is accepted, most of the retail dealers will remain as such and will not have to pay more than Rs. 3.

With these words, Sir, I commend my motion to the acceptance of the House.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in the Schedule, in item (*d*), "*Biris*," in column 2, for the words "one thousand," the words "two thousand and five hundred" be substituted.

As I have already said, Sir, my objection to some of the items in the Schedule is that they are not distributed on an equitable basis. Some of the items in the Schedule seem to be quite good; for example, if a person sells within the prescribed time 1,000 cigarettes to a particular person, he should be regarded as a wholesale dealer. Sir, I fully agree to that, but does it stand to reason as well if you limit the number to 1,000 in the case of *biris* also? Sir, the price of 1,000 cigarettes of the ordinary brands, namely, Scissors, Gold Flake or Passing Show, is about Rs. 18, but that of *biris* is not more than Re. 1-4. A dealer in *biris* can very easily get a man who would purchase more than 1,000 at a time, but it is difficult for a seller of cigarettes to find such a purchaser. This point has been altogether ignored, Sir, and I suggest, therefore, that it would be possible for Government to accept this amendment.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support the amendment of Maulvi Tamizuddin Khan, and the ground on which I do so is a bit different from that advanced by the mover. What does this Schedule indicate? It indicates that a person who sells more than one thousand *biris* to one particular person within forty-eight hours will be considered to be a wholesale dealer and will be required to pay the license fee at a higher rate. There are three classes of dealers—the wholesalers, the retailers and the hawkers. It may be possible for a hawker to go to a small shopkeeper who is really a retailer and take from him within the course of 48 hours one thousand *biris* for distribution amongst his clientele, and that should not surely make a wholesaler. In the same way, Sir, it ought not to make a shopkeeper who sells one thousand *biris* within 48 hours to a hawker to pay a higher tax. Cigarettes are sold in packets of tens and fifties, and *biris* are also sold here and in the countryside in packets containing 25 or 50 *biris*, and they are sold by hawkers generally. The hawker may take his supplies from either a big or small shopkeeper. And if the small shopkeeper in the village is made to restrict his sales to a thousand or less within forty-eight hours, that would probably mean that the hawker would have to go to somebody at a bigger place and at a greater distance in order to get his supplies. I submit there is no necessity for making a hawker walk a longer distance to a bigger place to get his supplies. I, therefore, suggest that a person who sells up to 2,500 *biris*, as has been advocated by Maulvi Tamizuddin Khan, should be considered as a retailer. With these words, Sir, I support the motion.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, in support of this motion, I would like to draw the attention of the Hon'ble the Finance Member to the practice, perhaps not known to him, to the transactions in *biris* in Calcutta. These *biris* are mostly prepared by poor people in their houses and sold by them to the nearest *panwalla*.

The Hon'ble Sir JOHN WOODHEAD: Unfortunately, Sir, the Khan Bahadur was not here five minutes ago when I made a statement about the *biri* manufacturers.

Khan Bahadur MUHAMMAD ABDUL MOMIN: In that case, Sir, I plead guilty.

Sir, I should, however, like to tell him that the average remuneration for making one thousand *biris* is five annas only. Poor people, especially women, in the *bustees*, take the materials from the shopkeepers and prepare the *biris* and get only five annas per thousand. Then again, Sir, there is a lot of difference between *biris* and cigarettes. One pound of tobacco is required to prepare one thousand cigarettes, but only two ounces are required for one thousand *biris*. Therefore, Sir, you cannot place *biris* and cigarettes in the same category. It would, therefore, be very fair if the Hon'ble Member would be prepared to accept the amendment and make the number 2,500.

The Hon'ble Sir JOHN WOODHEAD: So far as observations made by the Khan Bahadur are concerned, it is unfortunate that he was not here when I made the announcement that we intend to exempt persons from taking out a license for the manufacture of *biris* in their own houses provided they sell them to licensed vendors. Again, I do not think that price is necessarily a proper criterion for deciding the quantities to be entered in the Schedule. What we attempted to do, when we prepared the Schedule, was to adopt, on quite a generous scale, quantities which would distinguish between what might be reasonably described as a retail vendor and a wholesale vendor. As far as *biris* are concerned, I think everyone will agree that, on an average, a retail vendor is not likely to sell more than 1,000 *biris* to one individual in 48 hours. In the villages there are, I believe, very few hawkers. So, I do not think that Mr. Basu's argument applies to the villages. After all, a sale of 1,000 *biris* to one individual within 48 hours cannot occur frequently in the villages; how many persons are there in a village who will buy so many at a time? The ordinary consumer usually buys 10 or so at a time. I understand that *biris* are usually sold in boxes of 500. (KHAN BAHADUR ABDUL MOMIN: They are not sold in boxes but they are sold in bundles of 25 each.) Yes, they are sold in boxes. I

do not know whether any hawkers buy their *biris* from these small vendors, but I should doubt it, and if they do it is hardly likely that many hawkers in the villages buy 1,000 *biris* within 48 hours from small vendors. At the present moment I feel that I cannot accept a figure in excess of 1,000 *biris;* 2,500 appears to be a very large jump indeed. But we have the power—I wanted that power but some members of the House wished to deprive Government of that power—of increasing the quantities in the Schedule and if we find that there are quite a large number of relatively small vendors who sell more than 1,000 *biris* in 48 hours to one person, I shall have no hesitation whatsoever in raising the figure. But, so far as our enquiries go—and we had a Special Officer enquiring into the matter—very few vendors sell more than 1,000 *biris* in 48 hours to one and the same person, and those that do, carry on business on a large scale. It is, however, a point which I shall examine. I am afraid I cannot without further enquiry accept the amendment. We made enquiries and came to the conclusion that 1,000 would be a generous figure. I repeat that we propose to exempt all persons who manufacture *biris* in their own houses and sell them to licensed vendors. We definitely propose to exempt such persons from taking out a licence.

Sir, I cannot agree to any further increase at the present moment, but I promise to look into the matter.

After all Mr. Narendra Kumar Basu mentioned a hypothetical case. All that I can say at this stage is that we shall look into the matter and if we find that 1,000 is too small a figure I shall have no hesitation in raising it.

Sir, I oppose the amendment.

Mr. P. Banerji's motion was then put and lost.

Maulvi Tamizuddin Khan's motion being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Prombari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Ahmuzzaman.
Chaudhuri, Babu Khetsri Mohan.
Choudhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nurul Absar.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Karim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nasiem Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Poddar, Seth Hanuman Prasad.

Quasem, Maulvi Abul.
Rahamat, Khan Bahadur A. F. M. Abdur-.
Rahamat, Maulvi Azizur.
Rai Mahasai, Hemendra Deb.
Ray, Babu Amulyadhan.
Ray, Mr. Ghosti Bhobhanmoy.
Rout, Babu Hemanta.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada, Khwaja Muhammad, Khan Bahadur.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Saral Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. K. H.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chatterjee, Rai Bahadur Ram Dev.
Cohen, Mr. G. J.
Das, Babu Guruprosad.
Dutt, Mr. G. S.
Faroqui, the Hon'ble Nawab K. B. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Lamb, Mr. T.
Leeson, Mr. R. W.
Maguire, Mr. L. T.
Martin, Mr. C. M.
McCluskie, Mr. E. T.
Miller, Mr. S. G.
Mitter, the Hon'ble Sir Brajendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Shirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nag, Babu Suh Lal.
Nandy, Maharaja Srish Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Roy, Babu Khetter Mohan.
Roy Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinker.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 32 and the Noes 51, the motion was lost.

Mr. DEPUTY PRESIDENT: If the House has no objection, I should like to have one discussion on amendments Nos. 221 and 222, though I shall put them to the vote separately.

Mr. P. BANERJI: Sir, I beg formally to move that in the Schedule, in item No. (*e*), "cigars or *cheroots*," in the second column, for the words "two hundred and fifty" the words "one thousand" be substituted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg formally to oppose this amendment.

The motion was then put and lost.

Mr. P. BANERJI: Sir, I beg formally to move that in the Second Schedule, in item No. (*h*), "*jarda*," in the second column, for the words "one seer," the words "one maund" be substituted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg formally to oppose the amendment.

The motion was then put and lost.

Mr. DEPUTY PRESIDENT: If the members have no objection, I should like to have one discussion on amendments Nos. 224 and 225. They will, however, be put to the vote separately.

Babu AMULYADHAN RAY: Sir, I beg to move that in the Schedule, the following item be omitted, namely—

"(*i*) *Dokta* ... ... one seer."

Sir, it is doubtful whether the Hon'ble the Finance Member himself knows what *dokta* is; and I would ask him whether he still remembers what he said about the electricity duty. What he said on that occasion was that the electricity duty would affect the rich man and not the poor man. I would ask him in all seriousness whether by bringing "*doktas*" within the purview of this measure of taxation the poorest people will be affected or not. Sir, we know that *dokta* is mainly used by labourers and Indian women. Therefore, I would ask the Hon'ble the Finance Member not to go so far as to tax these poor labourers and Indian women. With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. P. BANERJI: Sir, I beg formally to move that in the Schedule, in item No. (*i*), "*dokta*," in the second column, for the words "one seer," the words "one maund" be substituted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I formally oppose both the amendments.

As regards the amendment of Babu Amulyadhan Ray, anybody who does not sell more than a seer of *dokta* within 48 hours to one person is a retail dealer. It is extremely unlikely that a retail vendor who sells more than one seer of this kind of tobacco to one person within 48 hours is a poor man.

The motions were then put and lost.

Mr. DEPUTY PRESIDENT: If there is no objection, I should like to have one discussion on amendments Nos. 227 and 228, though I shall put them to the vote separately.

Babu AMULYADHAN RAY: I beg to move that in the Schedule, the following item be omitted, namely:—

"(*k*) *Gul* ... ... One seer."

The Hon'ble Sir JOHN WOODHEAD: Sir, I accept the motion.

The motion was put and agreed to.

Mr. P. BANERJI: Sir, I beg to move that in the Schedule the following be omitted, namely:—

"(*n*) Any other kind of tobacco ... The prescribed quantity."

I consider the Schedule to be very exhaustive. There was one mistake due perhaps to the information of the expert who was deputed to make inspections in these matters. However, the Hon'ble Member has now found out that *gul* is never sold and has accepted the amendment moved by Mr. Amulyadhan Ray. I consider that it is very exhaustive even now. As there is no other kind of tobacco, what is the necessity of putting in the words "any other kind of tobacco." That will be giving a blank cheque in the hands of the Government. I think that it should be deleted and the Hon'ble Member will see no trouble to accept this amendment.

The Hon'ble Sir JOHN WOODHEAD: I must oppose the amendment. Mr. Banerji perhaps is trying to be complimentary to us. But I am not certain that the list is exhaustive. It is much better that we should have this reserve power to prescribe the quantity as regards any other kind of tobacco.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Khan Maulvi Tamizuddin.
Quasem, Maulvi Abul.
Rahaman, Maulvi Azizur.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nagendra.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Ahmed, Khan Bahadur Maulvi Emadeddin.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Saral Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Bashir Uddin, Khan Sahib Maulvi Mohammad.
Basu, Mr. S.
Benjamin, Mr. H. S.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chatterjee, Rai Bahadur Ram Dev.
Cohen, Mr. D. J.
Das, Babu Guruprasad.
Dutt, Mr. B. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. B.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.

Khan, Maulvi Ali Abdulla.
Lamb, Mr. T.
Lassen, Mr. C. W.
Maguire, Mr. L. T.
Martin, Mr. C. M.
Mcilwaikie, Mr. E. T.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Raheem, Mr. A.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Salleswar Singh.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr. W. H.
Townsend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 18 and the Noes 50, the motion was lost.

The motion that the Schedule, as amended, stand part of the Bill was put and agreed to.

Preamble.

Mr. DEPUTY PRESIDENT: The question before the House is that the Preamble stand part of the Bill.

Mr. SHANTI SHEKHARESWAR RAY: I want to offer my remarks on this Preamble. The Preamble of a Bill as a rule explains the scope of the Bill. Sir, so far as this Bill is concerned, I am afraid the Preamble is not sufficiently clear. So far as taxation measures are concerned, I would invite the attention of the house to Devolution Rule 30. It is stated:—

"All proposals for raising taxation or for the borrowing of money on the revenues of a province shall, in the case of a Governor's province, be considered by the Governor with his Executive Council and Ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and Minister or Ministers, according as the proposal originates with the Governor in Council or the Governor and Ministers."

Sir, so far as this measure of taxation is concerned, the Hon'ble Member in charge of the Bill has nowhere stated whether it has originated with the Governor in Council or with the Governor and Ministers. It is a serious defect which ought to be remedied, as otherwise it will lead Government to a difficult situation later on because in the first instance I am inclined to think that if the regular procedure has not been followed then the taxation imposed would be illegal. Secondly, there would be difficulty so far as allocation of the fund is concerned. The next point which I want to raise is this. In this Preamble we find that the previous sanction of the Governor General has been obtained under sub-section (*3*) of section 80 to the passing of this Act. If you refer to section 80A (*2*) of the Government of India Act, you will find it is stated that the Local Legislature of any province may not, without the previous sanction of the Governor General, make

or take into consideration any law imposing or authorising the imposition of any new tax, unless the tax is a scheduled tax as exempted from this provision by rules made under this Act. This tax on the traders who sell tobacco is a tax included in Schedule II attached to the Devolution Rules. In the Schedule Taxes Rules you will find that a tax in Schedule II is a tax which may be imposed for purposes of local authorities. Rule 3 of the Schedule Taxes Rules runs as follows:—

"The Legislative Council of a province may, without the previous sanction of the Governor General, make and take into consideration any law imposing, or authorising any local authority to impose, for the purposes of such local authority, any tax included in Schedule II to these rules."

Here we find that the previous sanction of the Governor General is not at all necessary. I do not see any reason why in this Preamble this statement about the previous sanction of the Governor General has been included. It is wholly unnecessary.

Mr. DEPUTY PRESIDENT: What are you trying to make out?

Mr. SHANTI SHEKHARESWAR RAY: I wish to make certain remarks about the Preamble.

Mr. DEPUTY PRESIDENT: You are not questioning the competence of the Legislature to pass this law, I think?

Mr. SHANTI SHEKHARESWAR RAY: I am not raising that point of order just as yet. It will depend on what reply I get from the Hon'ble Member in charge. I am raising this point for the consideration of the House and if the Hon'ble Member condescends to give some information to the House, perhaps it would not be necessary for me to raise a point of order. But if I do not get any reply from him, I shall raise a point of order on the third reading of the Bill.

Mr. DEPUTY PRESIDENT: I think you are not questioning the competence of this Legislature to pass this Bill.

Mr. SHANTI SHEKHARESWAR RAY: Nothing of the sort. I am only offering general remarks now on the Preamble and incidentally ask the Hon'ble Member to make a statement.

Mr. DEPUTY PRESIDENT: I think you will bear in mind the ruling already given by me.

Mr. SHANTI SHEKHARESWAR RAY: For instance, I say that that decision has not been taken separately by the Governor in Council or with the Ministers. The whole procedure is irregular either through mistake or irregularity. Sir, now turn back to the point at

which I left as regards the Schedule Taxes Rules. It is definitely provided that certain taxes to be imposed for the purposes of Local Government and such taxes as are included in Schedule I. So far as this tax on the traders is concerned, it is not a tax included in Schedule I. The Hon'ble Member in charge of the Bill may take up the position that he is imposing this tax under the shelter of Rule 48 of the Devolution Rules, Part II. I will invite the attention of the House to Rule 48. It says:—

"Sources of provincial revenue, not included under previous heads, whether (*a*) taxes included in the Schedules to the Schedule Taxes Rules, or (*b*) taxes not included in those Schedules which are imposed by or under provincial legislation which has received the previous sanction of the Governor General."

I should like the House to realise that there is a distinction made between taxes included in the Schedule Taxes Rules and the taxes not included in the Schedule Taxes Rules. Here is a tax which is not included in the Schedule Taxes Rules. So, the sanction of the Governor General is unnecessary, useless and beside the point. In a measure of taxation the Hon'ble Member in charge of the Bill ought to make it clear for what purpose he is imposing the tax. The Preamble does not enlighten us on the point. I hope the Hon'ble Member will be in a position to throw some light on the point that I have raised.

The Hon'ble Sir JOHN WOODHEAD: As regards Mr. Shanti Shekhareswar Ray's reference to rule 48 of the Devolution Rules, I have already dealt with that point. A tax on a profession or a trade is one of the taxes listed in the schedules to the Scheduled Taxes Rules and Mr. Shanti Shekhareswar Ray considers that a tobacco vend fee is a tax on a profession or a trade. Admitting for the sake of argument that his classification is correct all that the Scheduled Taxes Rules say is that a tax of that character may be imposed by a provincial legislature for the benefit of a local authority without the previous sanction of the Governor General. Section 80A(*3*) of the Government of India Act lays down that the legislature of a province may not without the previous sanction of the Governor General make or take into consideration any law imposing or authorising the imposition of any new tax, unless the tax is a tax scheduled as exempted from this provision, that is, exempted from the previous sanction of the Governor General, by rules made under this Act. The exemption of a tax on a profession or a trade from the previous sanction of the Governor General is limited to a tax imposed for the benefit of a local authority and does not extend to a tax imposed for the benefit of the provincial revenues. That is why the previous sanction of the Governor General was obtained to this Bill. If a precedent is required,

I would refer to the Bengal Motor Vehicles Taxes Act. There is nothing in that Act which limits the application of the proceeds of those taxes for the benefit of a local authority. If a precedent is required that is a sufficient precedent.

Mr. SHANTI SHEKHARESWAR RAY: What about Devolution Rule 30?

The Hon'ble Sir JOHN WOODHEAD: The fact that I, a Member of the Governor's Executive Council, am the Member in charge of the Bill is an answer to that.

The motion that the Preamble stand part of the Bill was then put and agreed to.

The Hon'ble Sir JOHN WOODHEAD: I move that the Bengal Tobacco (Sales Licensing) Bill, 1935, as settled in Council, be passed.

I do not propose to say anything at this stage.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I rise on a point of order. In view of the statement made by the Hon'ble Member in charge of the Bill I have no alternative but to seek your considered ruling on the point that I have raised. First, whether the Hon'ble Member can take shelter under section 80A for imposing this tax for the purpose of the local authorities. The difference between Sir John Woodhead's point of view and my point of view is that so far as any tax that has been included in Schedule I or II of the Schedule Taxes Rules is concerned, it does not require the sanction of the Governor General and, if I may be permitted to say, cannot be considered by this Council. So far as a tax not included in the Schedule Taxes Rules is concerned but is intended for the benefit of the local bodies, it is distinctly provided that it is within the province of the Indian Legislature and not at all within the province of the Local Council. I may point to Devolution Rules, Part II, No. 1, where it is stated "subject to legislation by the Indian Legislature as regards the levying of a tax not included in the Schedule Taxes Rules." So far as the Schedule Taxes Rules are concerned, it is distinctly stated that "the taxes which may be imposed for the purposes of Local Government and taxes which may be imposed for the purposes of the local authorities." It is my respectful submission that an attempt to turn a tax which has been earmarked by the Devolution Rules for the purposes of local authorities cannot in this way be diverted for the purposes of Local Government, even with the sanction of His Excellency the Governor General, because it is distinctly stated in Devolution Rule No. 48 that sources

of provincial revenue are whether taxes included in the Schedule Taxes Rules or taxes not included in the Schedule Taxes Rules which are imposed by or under provincial legislation which has received the previous sanction of the Governor General. Here is a tax which is included in Schedule II. How can this come under exception under which the Hon'ble Sir John Woodhead takes shelter? If this tax had not been included in Schedules I or II, then I could have understood his position that he could obtain the sanction of His Excellency the Governor General and try to impose the tax.

The Hon'ble Sir JOHN WOODHEAD: There is nothing, so far as I am aware, in the Government of India Act or in the Devolution Rules which draws a dividing line between taxes which can be imposed for the benefit of a Provincial Government and taxes which can be imposed for the benefit of local authorities. The Scheduled Taxes Rules specify certain taxes which can be imposed without the previous sanction of the Governor General for the benefit of a Local Government, and they also specify certain taxes which can be imposed without the previous sanction of the Governor General for the benefit of local authorities. They do not say that taxes which can be imposed without the previous sanction of the Governor General for the benefit of local authorities cannot be imposed with the previous sanction of the Governor General for the benefit of the Local Government. Devolution Rule 48 refers to "sources of provincial revenue whether included in the schedules to the Scheduled Taxes Rules, or not so included." As I have said, if this House feels that any precedent is required, there is the Bengal Motor Vehicles Taxes Act; there is also a license tax on tobacco in Bombay imposed for the benefit of the Local Government, and a similar tax in the Punjab also imposed for the benefit of the Local Government.

Mr. DEPUTY PRESIDENT: I have considered both the arguments, and I am definitely of opinion that this Council has power to pass the present legislation, and I rule that the House may proceed with the Bill.

Maulvi ABUL KASEM: Sir, I rise to oppose the motion which has just been moved and placed before the House by the Hon'ble Sir John Woodhead. I regret very much that an obnoxious piece of legislation for taxation like this should be associated with the good name of the Hon'ble Sir John Woodhead, a statesman, an official, and above all a man held in high regard and respect by my countrymen. I am afraid that for this very reason the Cabinet has shuffled on to him the unpleasant task of sponsoring this Bill. A great statesman

once on a memorable occasion remarked that a good measure robs the professional agitator of his vocation and a bad measure drives the innocent and peaceful citizens into the rank of agitators. I am afraid both this measure and myself belong to the latter category. I am not one of those who would advise or allow any Government to leave any deficit uncovered which would be a disastrous policy, but, Sir, for covering your deficit it was not necessary to have recourse to this taxation. Sir, there were a hundred and one means by which the Bengal Budget could have been balanced. We have been told that unless we can balance our Budget or unless we can raise money, the Government of India will refuse to give us a moiety of the jute tax. It was one of the threats held out to this House. Even without this taxation or by taxation in directions other than those which are under consideration if we could show to the Government of India that we could balance the Budget, the Government of India would have allowed us the jute tax to which we are rightfully, and I may say almost legally, entitled. But the Treasury Bench, confident of its own strength in this House, decided to have its own way, its own will, pressed upon the people of this province. It would have been wise if the Treasury Bench had taken courage in both hands and curtailed the expenses. The extravagant and top-heavy administration is almost scandalous in this province. We have heard what Bombay has done. You say, Sir, that it has been done in Bombay, but why could not you reduce the top-heavy administration here as they have done in Bombay? But will not do it. Again I say, Sir, there were other sources of revenue, but they would have touched the pockets of the rich and the flourishing, and above all would have taxed the city of Calcutta. Calcutta is a great city, Sir, for which Writers' Buildings have a love beyond all measure. Why could not you tax the people of Calcutta? You will not, I know, even if justice demands it, for the maintenance of the police; you cannot do it; it is not your policy, but it is according to the dictates of your policy to tax the sale of tobacco, that means to say, tobacco as manufactured in this province. Tax itself is an obnoxious thing. It is bad enough, but the general provisions of the Act make it worse. In this Bill it has been provided that house searches and searches of account books of every man who sells tobacco, which is not an offence at all, may be made; as if a trader who evades this tax is in the position of a criminal and should be dealt with as a criminal! In this matter, Sir, Sir John Woodhead and the Cabinet have taken care to see that the bulk of the tax should fall on the rural and agricultural classes, who however are the least able to pay—and I use this word advisedly—because a large quantity of the tobacco which is sold in the city by wholesale dealers goes to the village markets and is consumed by the villagers. I might here mention that to the poor

villagers, to the cultivators in Bengal, smoking *hookah* is the only dissipation, if I may say so, which they indulge in, and nothing else even if it is not a luxury it is a pleasure to smoke. In the bygone days one of the Lieutenant Governors of Bengal, Sir Charles Elliott, once enquired how it was possible for the *palki*-bearers to carry the *palkis* on their shoulders for long distances and the *palki*-bearers told him that it was possible because whenever they felt tired they smoked a *chilum* of *hookah* and that gave them revived energy; thereupon, he issued a sort of circular to his officers that those who were hardworked should be allowed to smoke in order to enliven their body and mind. Sir, in this matter we heard with pleasure and advantage the impressive and eloquent speech and pleadings on behalf of the rural population of my friend and namesake, Maulvi Abul Quasem, who made an excellent speech so far as we are concerned; an independent and unbiased House ought to have accepted the terms of his amendment, but the Treasury Benches sat adamant in their seats, not caring a fig for what the opinion of the people at large was and also for the opinion of this House. They knew that they could command the votes of this House; they had their own followers and therefore they did not accept his amendment, which would have given some relief to the rural areas and lessened the unpopularity which Government has incurred in this matter. It will go forth from every hamlet in Bengal, and from every hut in Bengal, that the Government of Bengal, as at present constituted, in which I include the Ministers as well, has taken this step to tax the poor man's smoke, which would deny them the pleasure and relaxation which they had been entitled to as it were, and which they enjoyed from time immemorial. The consequences of this are quite evident. It is also unfortunate that such a piece of legislation should be enacted in this year of grace 1935 and particularly when the whole British Empire was looking forward to the 6th of May when we would be celebrating the Silver Jubilee of Their Majesties. The enthusiasm, and I might say the intoxication, which imbued us with all these feelings has been marred by this one act of the Treasury Bench, and I may say that Sir John Woodhead has been made a scapegoat on this occasion. You cannot imagine, Sir, what mischief and trouble it will cause to the ordinary cultivators, the day-labourers and the poor men in the street. The question is, what after all is Rs. 3 a-year in taxes or Rs. 6 a year for a wholesale dealer? I admit, Sir, that it is not much. After all, all taxes are unpleasant, but apart from that, according to the provisions of this Act an engine of oppression has been thrown into the hands of Government officials—I will not denounce that Government officials whether appointed on the recommendation of Mr. K. C. Ray Chowdhury or otherwise, are all corrupt or dishonest, but it is a fact that you have placed too much power and temptation in their hands and temptation has always an intoxicating

effect. I can say and do it with a sense of responsibility that illicit distillation of country liquor is carried on extensively in this province; there are numerous places in Burdwan where this is done. What is the Excise Department doing about it? Their honest officers are above suspicion but are not competent to discharge their duties. Sir, the provisions of house searches and other things will be a source of oppression and vexation on the part of the officers of the Excise Department, who are no doubt like Caesar's wife above suspicion, but they will have the power of vexing and terrorising them in the country-side, where Government still carry great weight and influence with the masses, and where whatever we might say here or in the Town Hall, the masses are all docile, loyal and subservient to Government: and if you arm every limb of the Government with such power of interfering with them or terrorising them, you may easily understand what the feeling in the country will be. Sir, I would not have raised my voice, but for the fact that the rural population is sure to suffer at the hands of the Excise Department of the Government of Bengal. For instance, in the villages there are many petty shopkeepers who along with rice, *dal*, *moori*, etc., also sell tobacco, and if one of them has the misfortune to incur the displeasure of a petty official of the Excise Department, he may be put to trouble and that may have an adverse effect on his sale; so this will greatly interfere with the people at large and almost everybody in Bengal, Hindus and Muhammadans, Brahmins and Bagdis, to whom their *chilum* is not only an enjoyment and comfort but is also a great stimulant, after their day's labour. Government has deliberately placed in the hands of those who want a chaos in the land a trump card for their game. Sir, I think that the Treasury Benches have not been served loyally and faithfully as regards the present piece of legislation by their officers of the Excise Department. Here is a statement prepared by their officers in the Excise Department which gives a list of preparations from tobacco which we, people born and bred in this country, do not know of, and Sir, why is it that this tax has been proposed? Simply because Bombay has got such a tax. Well, Sir, Bombay has got many things which we have not got; we have got many things which Bombay has not got. The very fact again that cigarettes should be classifed with *biris* shows the great partiality on the part of the Treasury Benches. If Government wanted money to balance their Budget, I think they should have heavily taxed cigarette manufacturers and cigarette sellers—people who sell millions of cigarettes and who indulge themselves with shiploads of cigarettes. But these wholesale dealers are to pay only Rs. 6 along with the man who sells tobacco which is worth about Rs. 4 or Rs. 8 a maund because he sells that quantity within 48 hours. I do not know, Sir, why these two classes of manufacturers, the *biri* and the cigarette manufacturers, should be classed together.

Mr. DEPUTY PRESIDENT: These things have already been decided by this House.

Maulvi ABUL KASEM: I have to tell the House, Sir, what the implications of the amendments are. I say, Sir, that if Government wanted money they could very well get it by excluding the rural areas and imposing the tax only on the city and upon the big cigarette manufacturers and the big cigarette importers, but they dare not do that. Therefore, they must tax the poor millions who have everything to pay and whose money you spend and squander and by whose labour you live. They must be taxed and oppressed while rich men who can pay the tax will get away free. This is a situation which can no longer be tolerated, and I am afraid the time is not far when you will have to pay for it.

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

Mr. ABDUL KARIM: Sir, of the five new taxes which a desperate Government is going to levy in order to carry on the top-heavy administration of Bengal, none is more inequitous and likely to cause greater hardship to the masses than the tobacco tax. This might prove the proverbial last straw on the back of the overtaxed masses at a time when they are legitimately entitled to some relief. Unlike a similar tax, the salt tax, imposed by the Central Government, this tax will be collected directly from the poorest shopkeepers and rural retailers and will therefore be felt directly by the masses, who are bound to resent it as a measure of harassment at a crisis when they are already rendered almost desperate by the phenomenal fall in the price of agricultural products. It must seem to them a cruel irony of fate that instead of exploring every avenue of retrenchment and reducing the top-heavy administrative charges and the utterly disproportionate police and military expenditure, the Government seems determined to seek out and exploit every possible avenue of fresh and crushing taxation. Instead of giving effect to the specific recommendations of its own Retrenchment Committee and reducing the size and emoluments of its Cabinet, it restores the cuts in the salary of its over-pampered hierarchy of gilded officialdom, taxing the poor man's food, the middle class man's amusements and the industrialists' profits. Instead of insisting on the province's unimpeachable claims to its own full share of jute and income-tax revenues, it tamely accepts tantalising conditions even for the paltry share of jute revenue.

I would seriously warn the Government that measures such as the Tobacco Bill are bound to bring the Government into fiscal disrepute

with the masses. It must be borne in mind that in the villages there are a few poor retailers selling a few annas' worth of tobacco to the rustic labourer or tiller who consoles himself for the biting pangs of hunger and the maddening cares of his indebtedness with a half-pice worth of tobacco. It seems almost a fiscal madness to seek to deprive him of it, when the revenue accruing from it must be insignificant and the difficulties of collection tremendous. The penalties and confiscations provided for enforcing a pettifogging tax make it still more odious, and I shudder to think of the disaffection it will produce among the masses when they see their poor shopkeepers tyrannized over by an all-powerful Excise and Police staff for such a petty offence as selling a seer of *dokta* or exposing for sale a few seers of tobacco without paying Rs. 6 of license tax. The opportunities for tyranny and speculation will be infinite, and yet the temptation to evasion of the license must be irresistible to poor retailers whose entire capital invested in their tobacco often does not go beyond Rs. 2 or Rs. 3, which they turn over every day or in the bi-weekly *hats*. Naturally, it must appeal to him when he is called upon to pay Rs. 6 to continue a world-old trade with Rs. 2 or Rs. 3 worth of tobacco. It is all very well for England and Europe to squeeze out a revenue from rich tobacco-dealers catering for a public to whom even the unemployed or old age pension ensures charity allowance of Rs. 60 to Rs. 100 a month. It is a quite different proposition to harry a starving mass when the able-bodied son of the soil earns Rs. 2-8 per month on the average and where unemployment and starvation daily swell the records of suicides and even infanticides. It is hardly short of fiscal madness and administrative bankruptcy of statemanship to squeeze out a few additional lakhs by extorting eight annas per month from retailers and force them to court public displeasure by putting up the price of the debt-ridden agriculturist and half-starved labourer who never needed as badly as he does to-day his inseparable *hookah* or his pinch of hungerstaying *dokta*.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I opposed this Bill at its inception. I have tried to reduce the rigours of this Bill during its second reading, and now I have to oppose the passing of the Bill. It is no pleasure to me do so. The Government must not delude themselves that we are carrying on this opposition through sheer cursedness. So far as I am concerned, I can tell them with all earnestness and sincerity that my opposition to the Bill comes from a very real sense of danger in it—a danger which lies not so much in the petty amounts of taxation which have been imposed upon the various grades of dealers, but in those drastic provisions which have been borrowed from an Act imposing a tax of a very different character in respect of a commodity of a very different character also.

Sir, at one stage of the debate the Hon'ble Sir John Woodhead seemed to pretend that this was a perfectly innocent and innocuous measure, which would not affect the poor people very much. But in an unguarded moment, when he was putting forward a defence of a particular provision of the Bill relating to summonses, he was compelled to admit that there were some clauses in the Bill which would cause harassment to the people; and he supported that clause on the ground that it would enable excise officials to compound offences. Sir, I will take that admission. There are these harassing provisions which are not at all necessary for the purpose that is before us, provisions which might have been avoided with a little thoughtfulness, which might have been avoided if the Government had accepted any of my suggestions, or, if my suggestions were open to objections—the trivial objections which were trotted out by the Hon'ble Sir John Woodhead—he might have come forward with suggestions for amendment. Small amendments would have met all the objections which he had raised. But he did not do so; he contented himself with only destructive criticisms, in, what I must call, a most pettifogging spirit. Well, Sir, that was not the proper response—the response which was expected from him to an earnest endeavour on the part of a member of this House to give them what the Government wanted with the least amount of trouble to the people. But he has had the clauses of the Bill passed—the clauses which will cause harassment to the people, and the harassment he trusts to get over by giving the powers to the Superior Excise Officers to exercise them with good sense. In passing a legislation it is a sound policy to leave as little as possible to individual discretion. No loopholes should be left for oppression, when you can prevent it by legislation. No legislation could, possibly, contemplate all possible contingencies; and there might be some loopholes which might lead to abuses. But when you can see them before your eyes, it is not only bad policy, but it is wickedness to ignore them and insist on ignoring them.

Sir, when this Bill is passed into law with all these harassing provisions and when you take it to the people, the people in the villages will see that they will have to submit to visits, domiciliary visits, searches, arrests and other annoyances, and that at a time when the people know that the Government have been absolutely powerless or that the Government have not the will to save them in their dire distress on account of the economic crisis. For four years now the people have been suffering from severe economic crisis—more stringent and more aggravating than anywhere else in India—and the Government have so far given them what I cannot but characterize as mere eye-wash. Their efforts have not improved the economic prospects of the people at all, and they are left in utter despair. At this moment you go before them with a proposal for taxation—with a demand for taxes. I only wish that the

Government would realize what it would mean. What impression would you make upon the people in the villages? Probably, the answer to that will be that Government need not be afraid of it. Government are no longer afraid of the people. It was a different story three or four years back; but now the Government have got the people under their complete control; they are not afraid of the spread of disaffection. It may be so. If that is their attitude, I have no quarrel with them. You have the power, you have the strength, and if you choose to use them for the purpose of oppression and harassment, you are welcome to it and take the consequences.

Sir, I submit that it is a most ill-advised measure—a measure which gives the Government little relief in the matter of finances and causes the maximum amount of dissatisfaction and harassment to the people. It is not only that, but there is another point upon which I beg to oppose this measure and it is this: My friend, Mr. Shanti Shekhareswar Ray, in the course of the debate, raised a point of order about which I have my own personal doubts. I am not quite sure that he was right.

Mr. DEPUTY PRESIDENT: Dr. Sen Gupta, you need not discuss that point of order now.

Dr. NARESH CHANDRA SEN GUPTA: No, Sir, I shall not go into the merits or demerits of that point of order. But at the same time I do think that the Government of India Act, read with the rules framed thereunder, certainly contemplates that the Scheduled Taxes which have been placed in the Second Schedule, should be utilized for the purpose of raising funds for the local authorities. The Provincial Government are trenching upon the possible resources of local bodies by imposing this tax, which is meant for the purpose of raising funds for the provincial Government. Sir John Woodhead was reluctant to admit that it was a tax upon trade and upon profession. It is really a tax on trade and profession. Sir John Woodhead made a distinction which we lawyers are usually said to delight in making: he said it is not a tax on trade and profession; it is only a license tax. It is merely trifling with words. It is worse than that. It is worse than pettifogging advocacy. What is this license tax? The word "license" does not change the character of the thing. It is a tax upon the traders, and you are issuing a license for carrying on a trade. So does the Corporation of Calcutta; so do the mufassal municipalities under the new Municipal Act. They issue licenses to persons who pay the tax for carrying on their trade. It is a special provision which was contemplated as the province of taxation for the purpose of local bodies. Government has made its first incursion into those possible resources of local bodies, and I am sure that this is not the last. Sir John Woodhead referred to the Motor Vehicles Tax. We were competent to pass the

Motor Vehicles Taxation Act. Perhaps we are also competent to pass this measure. But I cannot think that Sir John Woodhead can forget for one moment that the Motor Vehicles Tax was imposed primarily for the benefit of the local bodies and primarily for discharging the financial responsibility of the local bodies and the fund is devoted for that purpose. You could raise that tax with that object without violating any principle underlying the Government of India Act Rules. But when you impose such taxes for provincial purposes you are breaking new ground and you are trenching upon the preserves of the local bodies. This is a departure which we most strongly condemn. We have shown very fully in the course of this debate how this measure is going to be a most obnoxious measure which will give a sour taste to the people, and I cannot but strongly condemn it.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I join with the previous speaker in making it clear that it is no pleasure to us to oppose this measure of Government. We have opposed it not by way of fun or for causing annoyance to the Hon'ble the Finance Member. On the other hand, we on this side of the House fully appreciate the motives of the Finance Member, and we have every confidence in his honesty of purpose and in his sincere anxiety for the benefit of this province. Sir John Woodhead belongs to a race of British officers who unfortunately are becoming rare nowadays who have given their best to the country; they came to serve and who by their devotion to duty and industry have raised the administration to its present level. I assure you it is no little pain to us to have to oppose a measure which has been initiated by Sir John Woodhead with the best of motives for the good of Bengal and which has received the approval of a Governor who has done and is doing more than any other for the uplift of the economic condition of the people of this unfortunate province. But we have our duties to perform; our duties both to the people whose spokesmen we are and also to Government whose prestige and popularity are so much at stake on account of this measure. I have not had the advantage of listening to the speeches that were made during the first reading of this and other taxation Bills. I would state briefly the reasons on which I am opposing this particular Bill. At this very moment, on the eve of New Reforms, I consider it highly inopportune that taxation Bills like this should be introduced. We do not want that the Reforms Government should begin with an inflated income but consider it desirable that it should begin with depleted expenditure. Just at the time when they are going to hand over the administration of the province to the representatives of the people, it is not a good policy to inflate the income of the province and make the future administrators extravagant. It is the fashion of the day to say that Government under the Reforms is going

to be expensive, I do not subscribe to that view. If the Reforms Government is unable to decrease the burden of the people, if the Reforms Government will mean more tax on the people, it is much better not to have the Reforms at all. We should certainly try to see that the future Government is run according to our capacity, according to the finances we can command. I find the Hon'ble Sir Nazimuddin is deprecating my remarks about this. I think the time is not far distant when he himself will have to put his shoulder to the wheel and add his voice to suggestions which have been made if he is a Member of the Government then, which I am sure he will be.

The one purpose for which these taxation Bills have been initiated is to fill up the gap in the deficit Budget. But taking all together the income expected from these five taxation Bills will only reduce your deficit by half, that even if the total income according to the Finance Member's estimate comes right. Of all these taxation Bills I think the Tobacco Bill is the most objectionable. It is the unkindest cut of all. This Bill will not give you any income worth having. That is my estimate, and at the same time it will cause the maximum amount of harassment to the people. I do not know on what basis the Hon'ble the Finance Member has estimated that the income from Tobacco Bill will be Rs. 5 lakhs. I do not think that there is any basis for a proper estimate. There is no record of the people who sell tobacco in the villages or in the town. But in any case unless the excise officers on whom will fall the administration of this tax are unnecessarily harsh, I do not think the income from this tax will be more than Rs. 3 lakhs at the utmost. The Hon'ble the Finance Member has said that no sensible man can say that the incidence of taxation under the Tobacco Bill is very heavy. I certainly agree that the incidence of taxation on tobacco will not be heavy, so far as consumers are concerned. Our objection is based not so much on the incidence of taxation, but because the Bill will touch the pockets of very poor people—not only the consumers but also the dealers. If the Hon'ble Member would go out with me one day to any side of Calcutta on an hour's run he will find all along the road sitting under the shade of trees boys with small packing cases, some coloured water bottles and a few *pans* and some *biris*—all these people deal with tobacco and will have to pay Rs. 3 according to the Bill.

As I said the other day, every hawker who sells *pans* and *biris* in amusement halls and railway stations will have to take license. We may say Rs. 3 or Re. 1 is not a very heavy tax. But one fact is ignored, that in taking out a license of Rs. 3 the poor illiterate dealer in tobacco will probably have to pay another Rs. 3 or more to obtain the license.

Then the provisions of house search and so forth about which a lot has already been said will lead to very great oppression on the people.

Another objection to this Bill is that it has no sense of proportion at all. You are taxing a firm like D. Macropolos Rs. 6, while you are taxing a poor *biri*-seller who sells 1,000 *biris* during 24 hours the same amount. He becomes a wholesale dealer because he sells 1,000 *biris* in a day and D. Macropolos also comes under the same category. A *panwalla* will have to take the same license as a big dealer. If you want to tax tobacco I think you can get more money by a proper and judicious taxation of the big dealers, leaving out the small fry.

One great reason for having this taxation Bill passed is to make a sort of gesture to the Government of India to receive the jute tax from them. But may I ask the Finance Member and the Treasury Bench, Are not we entitled to some gesture to show that the Government have reduced expenditure or made every effort to reduce expenditure before they ask for more money from taxation? Of course we will get the usual reply that every effort has been made to retrench. I have my own opinion in this matter. You cannot expect that we should vote supplies—supplies obtained from the life-blood of the poor people and by sucking them dry only to feed fat the prodigals of Government.

Then, Sir, there is the question of decision about retail and wholesale. How is an excise officer going to find out who sells a maund of tobacco within 48 hours or whether a *pikar* in a *hât* brings or sells 20 or 25 seers of leaf tobacco to the *arat*? How is the excise officer going to find it out unless like a ticket-collector in passenger trains he also carries a machine by which a passenger's luggage is weighed. Then this presupposes that every shopkeeper, retail or wholesale, and every hawker should keep an account of the sales of tobacco from their shops. The only good aspect of this is that it is likely to solve the question of unemployment to a certain extent, because every shopkeeper will have to employ one *mohurrir* to write out his account. Beyond that it would be really a very harassing measure to require the *panwallas*, the *biriwallas* or the *muriwallas* and all sorts of *mudi* shopkeepers to keep account of tobacco sales. There will always be disputes between them and the excise officers. Mr. Thompson the other day said that we were opposing this Bill more on grounds of sentiment than anything else. Certainly there is a great deal of sentiment when we feel that a poor cultivator who enjoys a little luxury in his *chilam* or, as Mr. Abul Kasem has said, thinks it a dire necessity, or a poor *durwan*, enjoying his *khaini*, are going to be taxed. What about the salt tax? There also the incidence of taxation on the people is very small; but ever since the Congress came into existence, they had been

objecting to it, and only the other day it was reduced by a great majority, from Re. 1-4 to 15 annas; though the reduction was small so far individuals are concerned, the total loss of revenue would be nearly 3 crores. I am trying to show that the sentiment of the people should not be ignored. These people will not understand the real position, but would say that the Government had become so bankrupt not only financially but also in statesmanship that they could not but tax these little necessaries of life. Therefore, I say that this tax will not bring you money in proportion to the unpopularity which you will gain by passing this measure. If there is still time I would advise the Hon'ble the Finance Member to reconsider the position and withdraw the Bill.

Mr. NARENDRA KUMAR BASU: Sir, needless to say that I rise to oppose the motion moved by the Hon'ble Sir John Woodhead. By this time the House is familiar with my views on all these taxation measures, and I would not take up the time of the Council by reiterating my objections except for the purpose of pointing out one or two little things. The first one is that from the inception of these measures we have been told by the Hon'ble Sir John Woodhead that one of the principal reasons for the introduction of this highly unpopular measure by the Government of Bengal at a time which is acknowledged by them to be inopportune is for the purpose of satisfying the people in the Legislative Assembly to whom in a sort of way the Finance Member to the Government of India gave a pledge that Bengal would do its utmost to put its house in order. Apart from the question of putting Bengal's finances in order only by means of taxation and not by other means of which retrenchment is one, let us face the facts. What is the truth about this matter? The Finance Bill in the Legislative Assembly has almost run its course. I believe the Finance Bill is going to be sent up to the Council of State either to-day or to-morrow or has already been sent up. Did we hear a word from the Finance Member of the Government of India about the suggestion that unless these taxes were accepted by the Bengal Legislative Council, the Government of India would not grant us half of the jute tax? I submit we have not heard any whisper as to that, and that shows in my submission that the grant to us of the jute tax is in no way dependent upon our passing these obnoxious measures. Even though Sir John Woodhead was frightened out of his wits——

The Hon'ble Sir JOHN WOODHEAD: No, I was not.

Mr. NARENDRA KUMAR BASU: I am glad to hear that he was not. Even though Sir John Woodhead tried to frighten us out of our wits in passing this measure by that bogey of the withholding of the

jute tax by the Government of India, I submit it is really a bogey and there is nothing to be afraid of. Another argument of the Hon'ble the Finance Member during the passage of this Bill through this House was that as year before last the Bengal Legislative Council accepted the principle of taxing licenses for trades and professions in the Bengal Municipal Act, why should not the Council accept the principle now? To that my answer is equally definite. The provision in the Bengal Municipal Act is only an enabling provision. It enables the municipalities, if they so choose, to impose a license tax on trades and professions. That Bill was passed by this Council in 1932—three years ago. There are 117 municipalities in Bengal. I would ask the Hon'ble the Finance Member to enquire from his colleague, the Hon'ble the Minister for Local Self-Government, how many municipalities in Bengal have adopted any resolution to have this tax imposed. If he has not already done so, I shall tell him that there are five out of 117, and even of these five in three of them the ratepayers have memorialised the Government of Bengal not to allow the tax in their particular municipalities. Sir, it is no use saying that the Bengal Legislative Council has accepted the principle of imposing a tax on licenses in Bengal municipalities and that therefore the Council stands committed to the principle of imposing a license fee on tobacco sellers. Apart from the difference in the conditions in the municipalities and in the professions, trades and callings referred to in the Bengal Municipal Act from the profession, trade and calling of the tobacco-seller in the mufassal—I am not talking of the wholesale dealer in Calcutta—I submit that the Bengal Legislative Council has not accepted it at all. What the Council accepted is that any municipality may be allowed to impose its own licenses on trades and professions and callings. If that be so, it is quite a different proposition. It has been said that the incidence of the tax is very small. Well, Rs. 3, Rs. 6 and Re. 1 may sound very small to members of this House: I mean the members of this House, both official and non-official, but what are the real facts? The Bengal Government expects a return of Rs. 5 lakhs out of these taxes. If you take the mean of Rs. 6, Rs. 3 and Re. 1, it will be about Rs. 3, that is to say, you are going to tax about 160,000 people in Bengal who vend tobacco either as a wholesaler, or a retailer, or a hawker. You are going to tax these 160,000 people about Rs. 3 each. I am forgetting another factor which is about the money to be spent by these men, who have got to pay this tax, over and above the tax, and I am also forgetting the amount which shall have to be paid by the people who will not pay the tax. If you take the total of that, the money spent would come up to about Rs. 10 lakhs and the people affected would come up to somewhere about Rs. 3 lakhs. You want to deprive not only the poorest of the poor from his only solace the *chillum*, the poorest of the poor from his only solace the

sookha, but you are imposing a tax really upon three lakhs of people for this amount of five lakhs of rupees. I do not want to waste the time of the Council by going into the various provisions of this Bill, but I shall remind my friend Mr. Momin, when he said that the smallest dealer would have to keep accounts, that he has forgotten that he shall have to keep not only the accounts, but shall have to keep a register of the names of each of his customers, because otherwise it will be difficult for him to prove that he did not sell a certain quantity to the same person during the last 48 hours. That is another bogey added to the terrors of the poor customers. I do not want to carry on the speech in opposition for any length of time. I am quite sure that the non-official members of the Bengal Legislative Council will at least in this instance emulate the activities of the members of the United Provinces and of the Central Provinces Legislative Councils and not accept this measure in a docile manner following the whims of the Government which wants to follow the Bombay Legislative Council. Sir, I appeal through you to the members of this Council to follow their neighbouring provinces and not to run away to far away Bombay. Reject this Bill, members of this Council, because it is not only inopportune but obnoxious.

Mr. P. BANERJI: Sir, we have discussed the details of this Bill, so I shall try to be as brief as possible. This Bill has been described by many members of this House as an obnoxious Bill and Khan Bahadur M. A. Momin has said that it will only cause the maximum amount of harassment. But, Sir, while saying so, the Khan Bahadur appreciated the honesty of purpose of the Treasury Benches and has also said that the tone of the administration of the country has been raised by the members of the Indian Civil Service. Here, Sir, I beg to differ from him. I beg to say that if anything has been done here in matters of administration, I do not term it an improvement, and as to the honesty of their purpose we have our doubts. But be that as it may, I would only submit to you the present position of the country. There has been a tendency among the leaders and representatives of India to lighten the poor man's burden by decreasing taxation. Our representatives in the Central Legislature have all opposed the further taxation measures and tried to lighten the burden of taxes. I also submit to you that the Europeans in the Central Legislature have created history. They in this matter have not supported the Government even in trying to replace the amendments that have been passed through their help in the Central Legislature. As I said, Sir, the Europeans there have made history, and I also appeal to my European friends here that they also will not support Government now, but follow suit of the Europeans who, as I have said, have created history in the Assembly. There is no denying the fact that there has been much

heat during the discussion of this Bill in particular. The Hon'ble Member thought that this Tobacco Bill would end in smoke, but as I said it did not. There was tremendous heat created in this House and I can warn Government—and it has been actually suggested by some members of the House now—that it will kindle a fire in the countryside that will not be extinguished in spite of the efforts of Members of Government. What I fear is that this is an attempt, as I said, in the beginning, which is certainly not made with the purpose of balancing the Budget; for to balance a Budget at this moment by taxing the poorest in the land is certainly inopportune and highly objectionable. Mr. Narendra Kumar Basu, speaking of the pledge of the Hon'ble Member about the jute duty, has proved beyond doubt that there is nothing whatsoever in it, and I may point out that that duty is legitimately our due. In section 137 of the new Government of India Bill it appears that His Majesty in Council will give us not only 50 per cent. of the jute duty, but also as much as possible and certainly not less than 50 per cent. at any rate, and there is no condition on that account. So that was simply and absolutely a bogey as has been pointed out by the leader of the opposition. I therefore submit that this is nothing but the parting kick of a dying Government. It has been said by Khan Bahadur M. A. Momin that Reforms are near at hand, but he also was of opinion that if the Reforms were to be more expensive, then it was better not to have them. But the Hon'ble Member asked what would happen if the Reforms did not come immediately but if they took two years yet to come into being. I submit, Sir, that if we could wait so many years and if the apathy of the Government of Bengal deprived us of crores of rupees for these twelve years, we can very well go on without these amounts for another two years. It does not matter: we consider this Bill therefore to be most obnoxious and inopportune; and should not have been brought forward at this stage. As I said, Sir, and as you know, a systematic attempt is now being made in the Central Legislature and by all the representatives of Europeans in India also to reduce taxation. But Government do not care for public opinion but want to run Government by means of certification as they are going to do so far as the Central Government is concerned. I, therefore, submit that all the non-official members of this House should stand united and so far as I am aware our Muhammadan brethren also are united against this measure, and throw out the Bill. To my European friends on the left I would appeal to lay before themselves the example set by the representatives of the different provinces of India who have created history, and I expect them too to create history in Bengal. To my Hindu friends I also appeal that they must not support Government in this instance. They must realise that their representatives in the Central Legislature have always voted and tried to reduce taxation in the Assembly. And while

they are there doing this in the Central Legislature, should we not be making ourselves the laughing stock not only of Bengal and of India but also of the whole world if we in any way support a measure like this by means of which Government are seeking to impose a fresh burden upon a people who can hardly bear any new tax?

Maulvi TAMIZUDDIN KHAN: Sir, I oppose the passage of this measure at its final stage with all the earnestness that I can command. To my mind this measure is most obnoxious and the most ill-conceived taxation measure for the present century so far as the Bengal Legislative Council is concerned. I do not like to enter into the larger question of the advisability of launching upon taxation measures at a time when the country is still within the grip of the most devastating economic disruption within living memory and when privation and starvation are the order of the day. This question has already been discussed threadbare on the floor of this House, and I do not want to enter upon it again. Government also seems to have realised that the time is not opportune for any taxation measure, and it seems to me that it is on account of this realisation that a promise was given by them when this measure was first introduced that an attempt would be made to exclude the really poor men from the operation of these measures as far as possible. But I would submit, Sir, that Government have signally failed in keeping their promise so far as this matter is concerned and the present taxation Bill, viz., the Tobacco Sales Licensing Bill, is the most glaring instance of that failure. But we agree with Government as regards one point, and it is this: Government said that the really poor should not be taxed and we also say that the really poor should not be taxed. But whereas Government still maintain that they are not going to impose any taxation upon the really poor men, we on the other hand think otherwise. Now, let us examine the question whether the poor man is going to be taxed heavily and that is the only point at issue that requires consideration at this stage. First of all I would refer to the case of the consumers—how the consumers will be affected. Take for instance the case of *biri;* at present, if a man gets 10 *biris* for one pice, when the Bill becomes law he will not get more than 8 *biris* for one pice; possibly he may get less, but I take it that he will be getting 8 *biris* for one pice. Now, Sir, what does it come to? It comes to this, that the poor *biri* consumer is taxed to the extent of 20 per cent., such will be the case, not only with *biris*: what will happen to ball tobacco, tobacco leaves and other preparations of tobacco? All these commodities will be dearer when this Bill becomes law and therefore the consumer will be affected. But I admit that had it been only the question of the consumers being affected, I would not have been so vehement in my opposition. There will be a burden on the consumers no doubt, but that will not be extremely heavy, as some people suppose, but the burden on the poor

dealers will be very heavy and that is where my opposition principally lies. I think that so far as this matter is concerned Government's position is absolutely insecure, and they have no answer to give. Now, let us examine one by one how the poor dealer will be affected by this Act. I am quite sure that Government have launched upon this measure simply because they do not know the actual state of things prevailing in the villages. I am also sure that the European members of this House, who I know have a great deal of sympathy with the rural people, also do not know the state of affairs in the rural areas; otherwise, they too would not have supported this measure. Sir John Woodhead, I know, was a District Officer for a very long time, and he had certainly a good deal of experience of villages in that capacity, but I think times have changed and things have changed and what he might have seen some 10 or 15 years back cannot be seen at the present time, and that is why he has come forward with a measure like this. If Sir John Woodhead can again think of going back to the villages, I am sure he will find that at the approach to every trade centre in the villages, under a banian tree there is a small boy sitting, with his little merchandise, and what does that merchandise consist of? A few *pans*, a few glasses of *sherbet* and a few packets of *biris* and by selling this he does not make more than annas 2 a day. Sir, when this Bill becomes law he will be considered as a retail dealer and will have to pay Rs. 3 per annum. Will he be able to pay that? Then again, Sir, what about the miscellaneous shopkeepers? You will find any number of such shopkeepers in almost every *hât*; they have no sheds under which to sit, they lay out their stores in the open; they carry their things on their heads to the *hâts* and bazars and sell their commodities there. Some of them are very poor, and they sell other things along with the popular *biri*, and their average income is something like Rs. 10 a month, but their income from the sale of *biri* alone is not more than one rupee a month. These men also will be considered retail dealers under the present Act, and he will have to pay license fees of Rs. 3 per annum. Again, what about the innumerable *panwallas*? Of course, the *panwallas* in the city of Calcutta—at least some of them—may be rich, but the *panwallas* in the mufassal are very poor. The *zarda* has nowadays become an inevitable concomitant of *pan*; so, the *panwallas* have also to deal in commodity. Under this measure these *panwallas* will also have to pay license fees of Rs. 3 each. Then, Sir, some of the members of this House must be aware that there are hundreds of small grocers' shops in the villages. You will find any number of them on the roadsides in the rural areas. All these shopkeepers, at least, sell ball tobacco and *biris* along with other things. Sir, what is their income? It is not more than Rs. 5 per month on an average: and all these people will have to pay Rs. 3 per annum only for selling *biris*, etc., under this measure.

Then, Sir, Khan Bahadur Abdul Momin raised the other day the case of the casual *biri* seller. Suppose in a village a *jatra* party comes for only three or four days. As soon as the party comes in, a gathering of people is expected, and some *chokras* or even adults become temporary dealers in *biris* and other kinds of smoke for the time being. Will they not have to pay under this measure? I am certain that under the present measure they will have to pay a tax.

From whatever point of view you might consider it, it is evident that these small dealers will be very adversely affected by this measure. But I think that the difference between a wholesale dealer and a retail dealer is a mere eyewash. I think that all the dealers—whether retail or wholesale—will have to take a six-rupee license, because unless they do so they will stand the risk of prosecution in case through good luck they may sell on a particular day in the year more than 1,000 *biris* to one single person within 48 hours. So, in order to prevent that eventuality he will have to take a six-rupee license instead of a three-rupee license. Therefore, practically speaking, all the people who will be dealers in *biris*, ball tobacco, etc., will have to pay a tax of Rs. 6 and not Rs. 3, even though they may not actually be wholesale dealers. If these things are considered, it will be seen that these poor dealers will be very adversely affected, and if there is any possibility yet for the Government to reshuffle the Schedule in any way, I think this question should be very seriously examined with a view to seeing that no serious hardship is caused to these poor dealers.

Sir, it was pointed out by the Hon'ble the Finance Member at the very outset when these taxation measures were introduced—that these taxation measures were introduced with a very laudable purpose. I do not dispute the purpose of the Government. Mr. P. Banerji has disputed that; but I think that that Government were actuated with the best of motives—there is no doubt about that. But my submission is that Government should not have sponsored this measure at least. There are other sources from which enough money might be obtained. This is a measure which should not have been taken up by the Government at all under present circumstances. Could not the Government have avoided this measure? Sir, Dr. Sen Gupta, Khan Bahadur Abdul Momin, and various other speakers very rightly pointed out that this measure would be a fruitful source for the agitator to foment disaffection in the country. I think this measure will cause greater harm to the Government than what the political agitator has hitherto been able to do.

Then, Sir, I would finally raise another question before I resume my seat. It is that old and vexed question of these taxation measures *vis-a-vis* the restoration of the salary cut. This matter has been discussed threadbare, and I do not like to go into its merits now. I would

only refer to it because the explanation which the Hon'ble Sir John Woodhead gave has not yet been answered. He said that there is absolutely no connection whatsoever between the restoration of the salary cuts and the five taxation measures. I accept Government at their word. I do not say for a moment that when Government introduced these measures they had in their mind the idea of restoring these cuts out of the proceeds of the taxes imposed by these measures. I do not say so. But if we look at the actual facts, what do we find? The income under these measures will be the income of the Government of Bengal, and the expenditure which the Government of Bengal are going to incur, owing to the restration of the salary cuts, is the expenditure of the Government of Bengal. So, where is the difference? There may be only a psychological difference. The difference is this, that these two concepts originated probably in different compartments of the mind of the Government. But I have already said, there is no actual difference at all. I will show this by an example—not of a rich man but of a poor cultivator. He is in distress and has to take a loan of Rs. 100 by mortgaging his homestead. For what purpose? He would say that his purpose was to purchase a pair of bullocks. What does he do with the money? He gives a gold necklace to his wife. (Cheers.) When he is accused of foolishly mortgaging his homestead for giving a necklace to his wife, he says: "I have mortgaged my homestead for Rs. 100 for the purpose of purchasing a pair of bullocks and not for making a present of a necklace to my wife. As regards the necklace, I may tell you that I promised it to my wife four years ago." (Cheers.) Shall we excuse the cultivator when he gives that explanation? The excuse of Government seems to be exactly like that.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I rise not to support the Hon'ble the Finance Member, but a forlorn cause—the cause of the poor people of Bengal, Muhammadans and Hindus, striving and struggling to keep the wolf out of their doors—people in the grip of the greatest economic distress. I am pleading for no caste or community, but for those who ought to be the first and foremost concern of all civilised Governments—the poor and the luckless in Bengal.

Sir, much has been said about the origin of these Bills. Charges have been levelled against the Hon'ble the Finance Member for introducing these measures in order to meet the expenditure to be incurred on the restoration of the cut in salaries. Sir, I will accept the assurance of the Hon'ble Member that the restoration of the cut has got nothing whatever to do with the introduction of the taxation measures, because knowing as I do the Hon'ble Member before many members of this House had any opportunities of knowing him, I will not charge

him for a minute with insincerity. I knew Sir John Woodhead before he won his laurels or the blue ribbon of his service. We knew him to be a man of strict principles and there was nothing diplomatic about Mr. John Woodhead as he then was; and I would be the last person to charge him with insincerity—with pretending one thing and doing another. But, Sir, my charge is that, while he was championing the cause of Bengal—while he was trying his level best for securing financial justice to Bengal along with the other members of Government—he ought to have thought twice before he gave his acquiescence to the will of the Government of India in the matter of this taxation. All my complaint is that the Hon'ble Sir John Woodhead should not have yielded so readily to the dictates of Delhi where he had spent a good part of his life and a good part of his service. Had he pleaded on behalf of the people of Bengal as he should have done, I have not the least hesitation in saying that, as a matter of fact, instead of the Finance Member of the Government of Bengal yielding to the Finance Member of the Government of India, the latter would have yielded to Sir John's protestations. That, Sir, is the grievance of the people of Bengal, and Sir John has given us nothing and has not told us anything on the strength of which this feeling of grievance can be removed. He has told us that the Government of India had asked the Government of Bengal to put our house in order. If Sir John had spoken out of conviction, the conviction which he held recently that Bengal cannot bear any further taxation—if he had done so and championed the cause of Bengal in this instance and resisted the Government of India, there would have been a new orientation in the Government's policy and there would have been a transformation in the whole political situation. We would have then felt proud of our Government and we would have felt justifiably proud of Sir John. But that has not been done: that, Sir, is our one great grievance. And the result is that we now see that the people of all classes, people who are unable to eke out a bare existence, are going to be taxed. Now, Sir, of all the taxation measures that have been brought forward in order to meet this deficit, the one which stands out for condemnation, universal condemnation, is this one, namely, the Tobacco Bill.

Sir, I will not subscribe to that creed, I will not lend countenance to an attempt to divide our ranks on the ground that this particular measure does not affect the well-to-do classes, the *zemindars*, the Hindus. I submit, Sir, whatever affects the poor people, the masses, that affects everybody and every class. If it were not so, we the landholding classes rightly deserve the condemnation that the Hon'ble Sir B. L. Mitter administered to us on a recent occasion that the *zemindars* were no longer the leaders of the people. I appeal to the *zemindars*, to the landholding classes, to the Hindus that if they do not take up the cause of the tenantry, then they are not fit to lead as they profess to do.

The masses are our kith and kin, they are our flesh and blood, and if they are touched we are also touched; if they live we live; therefore, I say that this is a Bill which concerns all of us.

Now, Sir, I will not dilate on the various aspects, showing how it will spell hardship. That aspect has been very ably—much more ably than any attempts on my part could achieve—dealt with by the previous speakers; and all I want to submit is that there is one question we have not been able to understand. What is it? The reason for this taxation has been stated to be "putting our house in order." Hon'ble members will certainly note what is meant by "putting our house in order." What has put our house in disorder? Is it a disordered house? If so, why and who is responsible for that? The active members of the Government of Bengal, who have been fighting for the cause of financial justice, have spoken times without number, spoken not only here but before the Government of India and in England that it is the iniquitous Meston settlement which is responsible for this disordered state of our house. It is the exploitation of the jute export duty which is responsible for the present plight of the Government of Bengal. I put it to the House to consider who is responsible for putting our house into disorder? It is the Government of India, who, under the influence of other Provincial Governments, have perpetrated this financial injustice to Bengal. The voice of the Government of Bengal and of the people of Bengal no longer prevails in the counsels of the Empire; and it is our crying grievance that it is the Government of India who have robbed us of our just dues during the past few years. Had it not been so, the question of taxation at this time would not have arisen at all. Therefore, I say that the fundamental proposition is very wrong. The very ground of these taxation measures is untenable. We have not put our house in disorder. It is they, I mean the Government of India, who have done so, and it is up to them to put it in order.

Sir, there is one other point to which reference has been made, and it is that we are partly responsible for terrorism which costs the Government a large amount of money. I do not hold any brief for terrorism and the terrorists. I have never done so, and I will never do so. I am fully conscious of its baneful effects and the irreparable injury done to Bengal by the activities of the terrorists, and I think that this injury will never be repaired in our lifetime.

Have not Bengal responded fully in co-operating with Government in putting down terrorism?

Mr. K. C. RAY CHOWDHURY: Sir, has terrorism got anything to do with it?

Mr. DEPUTY PRESIDENT: You can leave out the question of terrorism.

Babu SATISH CHANDRA RAY CHOWDHURY: There is consciousness in the mind of the people of Bengal about the harmfulness of terrorism. We strongly hope that it is a thing of the past, unless you keep the memories of it alive by talking about it in season and out of season. Even with terrorism and even with the expenditure in connection with that, the financial position of Bengal would not have been what it is but for the Meston settlement which took away a large part of our finances which could be got from the export duty on jute. So I say it is a false claim which has been advanced. As a matter of fact, we have not been responsible in any way for the disorder which is made the pretext for the taxation.

With regard to this Bill I will not cover any old ground or will not touch on any point which has been dealt with by previous speakers. The one merit claimed by Government for this measure is that it will not touch the growers and cultivators. On a little scrutiny it will appear that it will vitally affect the growers and cultivators in the mufassal. In the mufassal areas you cannot draw a line of distinction between a trader and a cultivator. The cultivator in one capacity is a trader in the mufassal market and in another capacity he is a grower. The Bill will seriously affect him. He is often a small trader in the *hât*. That is one reason, and the second reason is that the growers are the small plot-owners in villages, ignorant, unsuspecting, unsophisticated and unorganised, whereas the middlemen traders are more or less organised and they will take advantage of this Act and try to get money either out of their own consumers or vendors. They will approach the vendors first and say that they can take the tobacco not at the normal rate of say Rs. 5 but at the rate of Rs. 4-8 as they will have to pay the tax. So the poor growers will suffer and the money will go out of their pockets. So in that way the growers will be affected as much as the others. The other claim made for supporting this Bill is that the life of the Bill is limited to three years. I submit that it will rather lead to some amount of confusion in taking a true perspective. At one time I was impressed with the idea that as the Act was limited to three years only, it became less objectionable, but a little more thinking brought me to my present opinion. The life of three years is not a very serious assurance to us. One does not know what will happen after three years. After three years we may be in a solvent condition when we shall be able to pay an additional tax. But at present anything coming on us is the last straw on the camel's back.

Another consideration which I will urge to the members of this House is that you will find from the Taxation Enquiry Committee's

Report that it is the thin end of the wedge—the thicker end is quite visible. If you will turn to the Taxation Enquiry Committee's Report you will find that, although they said that as a matter of fact so far tobacco has not been taxed, they held that attempt might be made on the lines of this tax. They further suggested that we might begin with a license fee and end with a tax. I am quoting paragraph 200 from the Taxation Enquiry Committee Report:—

"For the taxation of other forms of tobacco, the only feasible method appears to be to institute a system of licensing, leading ultimately to a system of selling the monopoly of retail vend in specified areas. A sudden attempt to introduce at once the full system of a monopoly of retail vend might be dangerous. (Mark the word 'dangerous.') An essential preliminary is to concentrate the dealing in tobacco. If, therefore, it is intended to levy a tax on country tobacco in any area, the first step should be to impose a simple license tax with a fixed fee on all retail vendors of tobacco."

So we have here the thin end of the wedge. If you think it will come to end in three years, then you are entirely mistaken. The report says, that is only the beginning of what is coming. I admit that in future when the Reforms will bring other compensating advantages, we may have to tax not only tobacco but other commodities also, but at this time such a taxation is both inopportune and unwise.

(Here the member reached his time-limit.)

Mr. DEPUTY PRESIDENT: I think it will be the pleasure of the House that I shall restrict the speeches to five minutes.

(A VOICE: "Ten minutes.")

Mr. DEPUTY PRESIDENT: I might consider individual cases, but generally I shall restrict speeches to five minutes.

Mr. SHANTI SHEKHARESWAR RAY: I oppose the Bill. I do not think that it would serve any useful purpose if I repeat all the arguments that I have placed before this House opposing the different clauses of the Bill. One point that I would like to place before the House and Government is this: That before they assent to this Bill they should realise what bad effect this would have on the trade and commerce of this province. You are taxing the trader who deals in tobacco. You cannot possibly stop there. If you are to avoid the charge of making invidious distinction, you will have to tax or impose a license fee on those who sell other commodities, for instance, potatoes, onions and other articles. Even there will be an apprehension in the minds of the people that you cannot avoid imposing tax on the jute-sellers. The man who sells tobacco makes very little profit, and he is

expected to take out a license for which he has to pay Rs. 3 to Rs. 6. On what ground can you exempt a man who makes a fortune on jute? How can you exempt a man who makes more money than the tobacco dealer? The Government established in this country has the reputation of a just Government, but when in the mufassal a man who sells tobacco finds that he has to pay license fee for selling such an ordinary commodity as tobacco but his neighbour who deals with jute or with some foreign articles (say) Dietz lanterns or foreign shoes, has not to pay anything, what will be his feeling? His feeling will be that the Government is no longer just, but something else. It should be the duty of the Government to avoid the spread of such a feeling. I am glad that this measure has not originated with the Transferred Side of the Government. At any rate, that is some consolation that those elected members of this House who form a part of the Government are not guilty of such action as to impose such a tax at the present time. I do not know what their views are. At any rate, they have not brought forward this measure. The whole opprobrium for this measure rests with the Reserved Side of the Government. But I would appeal to other members of the Reserved Side. I appeal specially to the Member in charge of Law and Order to make his voice heard in Cabinet and press the baneful effects of this measure from his point of view. The Finance Member in his desire to justify his conduct before the Government of India may be tempted to bring forward such a measure irrespective of the result, because it is not his province to see that there is a breach of the law and order in the province, but surely with other members of Government such consideration would prevail and, finally, I appeal to them that they should introduce such a procedure that there would be very little friction in realising this tax and to introducing the work to the Excise Department.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I do not think I shall be justified, as an elected member of this House, in acquiescing in all that has been said in favour of this Bill. The Hon'ble Sir John Woodhead has unquestionably laid his "financial" finger, if I may say so, on a wrong commodity—a commodity which is of daily use in every family, rich or poor, in this country.

I am unable to add to or reinforce the arguments that have been advanced against this measure both at the time of introduction as during its subsequent stages of passage through this House. It is considered to be an inroad, an unjustifiable inroad, on the slender resources of the people of Bengal. To the poor, Sir, it is an unwelcome measure, the effect of which will be keenly felt by more than 90 per cent. of Bengal's population, by every agriculturist and labourer to whom it

is not an article of luxury but a necessity, next only to his food and drink. With the passing of this Bill, many a poor family, I am afraid, will be without the hubble-bubble which by tradition has become the poor man's "boon companion in weal and in woe," or what is still worse, will be forced to seek solace in cheap contrabands or "boot-leggers" tobacco, endangering his health, and may be, even his life. It will deprive the labourer of that much-needed relaxation from duty. The *hookah* is his only solace amid his dreary toil. The English peasant has his beer and his spirits to refresh and cheer him up, but the Bengal husbandman drinks neither. "Should the Legislature be so inconsiderate," said the Rev. Lal Behary Dey in 1874 in his famous book 'Bengal Peasant Life,' "as to tax tobacco, the poor peasant will be deprived of half his pleasures, and life to him will be an insupportable burden." Sir, a puff at the *hookah* dries up the sweat of his brow, pours vigour into his muscles, takes away from him all sense of langour, restores lustre to his sunken eyes, recruits his fading eyes and alleviates the pains of his toilsome life. "What a glorious creature," said the Homer of English novelists, "was he who first discovered the use of tobacco! The industrious retires from his business, the voluptuous from pleasure, the lover from a cruel mistress, the husband from a cursed wife and I from all the world to my pipe." Let Government impose any tax they like income-tax, license tax, succession tax, salt tax, feast tax or fast tax—but let them have a care that they do not tax that precious weed which is the Bengal *raiyat's* only solace amid the privations of his wretched life. Personally, Sir, I have always been against the habit of smoking and the only redeeming feature of this Bill is the somewhat remote chance that it offers in putting a check upon the growing evil of smoking among our young men. This is the only silver lining in the cloud, and if I could be sure that the present measure would to some extent enable us to achieve this end, I would not hesitate to give my whole-hearted support to it. But that is a remote chance, as I have already said, which cannot be banked upon as being of any practical value whatever.

So, Sir, if the salt tax is regarded as iniquitous, hardly less so would be the scheme of taxing tobacco. Evidently, the Hon'ble Finance Member has forgotten the other sources of taxation which would have yielded a substantial income to Government. A tax on Darjeeling-goers, or, for the matter of that, on visitors to Kalimpong or Kurseong, would not have been inappropriate. People have no right to enjoy the salubrious climate of these health resorts without payment of a fee or tax. Darjeeling is famous for its fog, and a small levy on this gift of nature would not have gone in vain. If I were the Finance Member to the Government of Bengal, I would, in the first place have taken a census of visitors to Darjeeling. I would have maintained a medical staff for examining them and determining the difference that

the hills have made to their heart, their lungs, in their weight and a hundred other details that account for better health. Thus, a tax on such health-seekers would bring to the coffers of Government a substantial revenue with which to wipe off the deficit in Bengal's Budget. To further replenish the provincial exchequer, a tax on fat people would not, perhaps, have been unjust, for a person has no right to carry more flesh than the average individual. I would have prescribed a standard height and weight of a man and taxed those exceeding the prescribed limit. Then, Sir, a tax on loud laughter would not have been an unwelcome measure, for it speaks the vacant mind. It indicates freedom from anxiety which is, again, the sign of health, and nobody has the right to enjoy health without paying for it!

But, Sir, to be serious. Any measure that is likely to affect the rural agriculturists can hardly be approved of at the present juncture when the prices of agricultural produce are sagging below their normal level, in many instances much below even the cost of production.

(At this stage the member having reached his time-limit resumed his seat.)

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

Maulvi ABUL QUASEM: Sir, I rise to oppose the motion of the Hon'ble the Finance Member that the Bengal Tobacco (Sales Licensing) Bill, 1935, as settled in Council, be passed. Sir, those of us who have opposed Government so far as these taxation measures are concerned, are now fighting in the last ditch. One by one, all the key positions we had taken up had to be given up before the relentless pressure of the Government forces. Our only consolation is that we are a voluntary force, who believe intensely in the goodness and justice of our cause, whereas the Government forces are largely composed of "mercenaries." This is literally true. We have opposed Government, because we feel that the measures, particularly the Tobacco Bill, are obnoxious and inimical to the interests of the poor.

The Hon'ble Sir JOHN WOODHEAD: Sir, I object to the word "mercenary."

Mr. DEPUTY PRESIDENT: Yes, it is unparliamentary, and I think Maulvi Abul Quasem should withdraw it.

Maulvi ABUL QUASEM: Very well, Sir, I withdraw it, and substitute "paid servants of Government." I oppose these taxation Bills

and particularly this Bill, because I am convinced that there is not an iota of justification for any of these measures. The reasons and arguments put forward in support of these measures cannot hold water for a moment, and there is nothing of substance in these arguments. We were told that we had to impose these taxes in order to give proof to the Government of India of our readiness to help ourselves. Sir, I ask in all seriousness, With what face can Government ask the Council to pass these taxation measures, when they are considered in relation to their incongruous context of the restoration of the cut in the salary of Government servants? Sir, there seems to be absolutely no justification on the part of Government in restoring the 5 per cent. cut in salary and then in coming to this Council with those taxation proposals. The Government of Bengal say that they are not responsible for the restoration. I make no distinction between the Government of India and the Government of Bengal. It is really the Government at Whitehall and not the Government of India or the Government of Bengal who are ruling India. It is really the British Government at Whitehall that is functioning in this country. So far as Bengal is concerned we have not been able to cover our deficits, our emergency has not passed, and therefore there is no justification for restoring the 5 per cent. "emergency" cut. Sir John Woodhead would get annoyed if I ask——

The Hon'ble Sir JOHN WOODHEAD: I never expressed any annoyance and I never get excited, like Maulvi Abul Quasem.

Maulvi ABUL QUASEM: Well, Sir, my excitement is due partly to my youth and mainly to my intense fear of the hardships and harassments that the Bill would cause to the people whom I represent here. And, then, Sir, Sir John Woodhead can well afford to remain calm because he is the "taxer" and I cannot help getting excited because my people are the "taxed." Well, Sir, I ask: Have the Government of Bengal protested formally to the Government of India against this restoration of the 5 per cent. cut? I pause for an answer. There is no answer. The Government of Bengal has acquiesced in this, and so they ought to be censured. I have heard it suggested that it is the Government of India who should be censured. Well, the Government of India are being daily censured at Delhi, and seem to have become proof against censure. The fact is that the system of administration in this country is quite worn out and *effete* and out of date. This autocratic way of treating us like so many children and disregarding our voice is really intolerable. In his introductory speech made in connection with the taxation measures, Sir John Woodhead asked the members of this Council not to adopt a diehard attitude towards them.

I bring the charge of adopting a diehard attitude against Government. Sir, I brought forward an amendment asking Government to confine the operation of this Bill to certain restricted areas, namely, municipalities, cantonments and railway stations. May I in this connection refer to the extraordinary issue of the *Calcutta Gazette* of 28th January, 1935, page 30, to point out that in the Punjab a similar measure extends only to municipalities, notified areas, cantonments and railway stations, and not to the whole province? I did not include in my amendment "notified areas." Government could have included them if they liked. If the Government had shown the least gesture towards accepting my amendment, much bitterness would have been eliminated, but they were drunk with the consciousness of their superior strength. Mr. Thompson asked the other day why should the rural areas be altogether exempted from the operation of this Act. I say, You are not really excluding the rural areas. When the Government of India proposed to give us half the yield of the jute duty they levied a particular tax known as the Match Excise Duty. Bengal is—rural Bengal—therefore contributing towards this 158 lakhs. They have not given us half the jute duty for nothing. You do not take that into account. There are innumerable indirect taxes which the poor villagers are paying. You Englishmen do not realise the really pitiable position of people in the rural areas. You cannot have any idea of the picture of misery which is presented before our eyes in the villages, and that is why you seem to think that we are making a mountain of a mole hill. We could have understood to some extent the Government's position if they had not restored the salary cut. In spite of all our appeals and solicitations, the Government is obdurate and unyielding. Sir, I would make a personal reference. I am no politician. In my life I have never addressed a political gathering and I have never been a political agitator. Nor am I, Sir, a disappointed man who nurses a personal grievance against the Government. But I must confess that Government's unbending attitude has stung me to indignation and revolt. I can feel why people get dissatisfied with Government. Attitude such as this on the part of Government is calculated to turn Government's most loyal friends into their bitterest enemies. I can well understand the feeling that will arise in the country. Disaffection will spread widely and universally. Nothing would have happened, the heavens would not have fallen, the earth would not have been rent asunder; no calamitous consequence would have ensued, if Sir John Woodhead had thought fit to accept my amendment. Why, after all, does Government want this money? Government ostensibly wants to undo that monument of iniquity miscalled a settlement by the name of the Meston Settlement. In order to undo one iniquity, Government are going to perpetrate these monstrous iniquities—I mean these taxation measures. Surely, Sir, one wrong cannot justify other wrongs. Sir, I strongly oppose the passing of the Bill into law.

Mr. C. C. COOPER: Sir, I move that the question be now put.

Mr. DEPUTY PRESIDENT: I am inclined to accept that but before doing so, I should ask Sir John Woodhead to reply.

The Hon'ble Sir JOHN WOODHEAD: Sir, I would ask the House in considering this Bill——

Mr. SHANTI SHEKHARESWAR RAY: I rise to a point of order. Is it not necessary to put the closure motion to vote?

Mr. DEPUTY PRESIDENT: I have not accepted the closure motion but I have asked the Hon'ble Member to reply to the debate.

Mr. SHANTI SHEKHARESWAR RAY: I was under the impression that the Chair said that he accepted the closure motion.

Mr. DEPUTY PRESIDENT: I reconsidered the matter and called upon the Hon'ble Member to reply.

The Hon'ble Sir JOHN WOODHEAD: I would ask the House in considering this Bill to put sentiment on one side, and to look fairly and squarely in the face the question. What does this taxation amount to? It is easy to talk about the disastrous effect of this taxation measure on the countryside, but is it a fact that everybody will be affected by the tax? The first point that I make is that tobacco is a luxury; in spite of all protests to the contrary, tobacco certainly is a luxury, and those who have urged that it is not a luxury but a necessity are themselves confounded out of their own mouths, because if carried to its logical conclusion, the argument means that tobacco is a necessity to everybody, and that means that they approve of juvenile smoking. I repeat, Sir, tobacco is a luxury and if as has been urged it is a necessity to the man who carries the *palki*, to the man who cultivates the field, then Sir, it is also a necessity to every human being, from the child to the old man and woman. Is the House prepared to accept that conclusion? I hope not. Sir, tobacco is a luxury which is taxed in almost every civilised country of the world. As I have explained, it is the subject of taxation in many parts of India and I believe I shall be correct when I say that economists are generally agreed that it is an article which is suitable for taxation. That, Sir, is my first point. The second point is this: It has been urged that this tax will affect everybody in the province. I deny that entirely, Sir. It will affect

only a small proportion of the total inhabitants of this province. First of all the cultivator who grows his own tobacco is exempt: he can make the tobacco he grows into ball tobacco and smoke it without being in any way affected by the tax; further he can, without taking out a license, sell the tobacco he grows to whomsoever he likes. As regards the consumer, are members of this House convinced that a small tax of Rs. 3 per year for a retail dealer—it has even been described by members of this House as a petty tax—are the Members of this House convinced that a small tax of Rs. 3 per year on a retail vendor, and a small tax of Re. 1 per year on a hawker, will raise the price of tobacco in Bengal? That is a proposition which I cannot accept and which I do not believe to be true. Can it for the moment be believed that the mere fact that a vendor has to pay Rs. 3 per year as a license fee, that is annas 4 per month, can you for one moment believe, honestly believe, that because a vendor is required to pay annas 4 a month as a license fee, the price of the tobacco that he sells will go up by any appreciable extent? Of course it won't. It is no use in one breath describing this tax as a petty tax and then in the next urging that it will seriously affect the whole population of the province. Take an ordinary Eastern Bengal village. How many shops are there in an Eastern Bengal village? Maulvi Abul Quasem and Maulvi Tamizuddin Khan know as well as I do, that in Eastern Bengal there are many villages which have no shops at all. Will those villages be affected by this tax? Will the inhabitants of these villages think that Government have forced this measure on the province? You may be sure, Sir, they will never think anything of the sort; the large majority of the cultivators will not know that this taxation has been imposed upon the sellers of tobacco. Sir, although we estimate the proceeds at Rs. 5 lakhs, it has been urged on the floor of this House that we may not get more than Rs. 3 lakhs. If that be so, to what extent is this tax going to affect the individual inhabitant of Bengal? It is very easy, Sir, to say that this tax will prove a heavy burden on everybody. It certainly requires the vendors to pay small license fees, but how many vendors are there in this province? Suppose there are 2 lakhs of vendors. That means that only 1/250th or 0·4 per cent. of the entire population of Bengal will be directly affected by this tax. And what is the scale of the tax? It is only Rs. 3 for a retail dealer, Rs. 6 for a wholesale dealer and Re. 1 for a hawker. Khan Bahadur M. A. Momin has said that we should have taxed the wholesale dealer at a rate higher than Rs. 6. I think, Sir, he forgot that Maulvi Tamizuddin Khan moved an amendment which restricted the maximum for the wholesale dealer to Rs. 6 a year. Did I put Rs. 6 in the Bill as a maximum for the wholesale dealer? No, Sir, I omitted the fee from the Bill and one reason why I did so was that I hoped that with experience, it might be possible to evolve a scheme which would enable us to impose a higher license fee than Rs. 6 on the wholesale dealer. But the House, Sir, compelled me to

do otherwise; the House took the view that the maximum fees should be included in the Bill and in order to meet the wishes of the House I accepted an amendment fixing Rs. 6 as the maximum for the wholesale dealer. Has Khan Bahadur M. A. Momin forgotten that Maulvi Tamizuddin Khan, the Secretary of the Party of which he is the leader, tabled an amendment proposing that the maximum fee for the wholesale dealer should be Rs. 6? It is no good blowing hot and cold in the same breath. We have got to look facts in the face. Then, Sir, I would ask Khan Bahadur M. A. Momin whether it is not a fact that the price of tobacco varies from year to year, and whether those fluctuations in price are not likely to be far greater that any increase in price which can be caused by a license fee of Rs. 3 per year or annas 4 a month? Does he maintain that the price of tobacco due to trade conditions never flutuates to an extent greater than that likely to be produced by a license fee of Rs. 6, Rs. 3 and Re. 1? Sir, the price of tobacco is subject to market fluctuations, like every other commodity, and I maintain, Sir, that those fluctuations are far greater than any change in price which may be attributed to a license fee such as we propose. Do the cultivators raise a storm when the price goes up owing to market fluctuations? No Sir. In fact, Sir, I maintain that the vast mass of the population of Bengal will not know that this taxation has been imposed at all.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I question that.

The Hon'ble Sir JOHN WOODHEAD: As regards the danger of petty oppression in the countryside, I recognise that several members feel strongly on that point, but, Sir, I put that down largely to a feeling of sentiment and perhaps to the coming elections. I recognize that a certain section of this House is opposed to any taxation on tobacco, whatever the form it may take. I agree that the taxation of tobacco is a new form of taxation in Bengal, it is something novel, and I can assure the House that in working the Bill we will try our best to ensure that petty oppression will not take place. I recognise that it is a novel tax in this province and the House may rest assured that in applying the law we shall certainly make every endeavour to avoid harassment. That will be one of my chief objects in administering this Bill and I can assure the House that we shall make every endeavour to avoid causing harassment. On several occasions, I have challenged certain members of this House, and Mr. P. Banerji in particular, who will persist in talking about the poor consumer in connection with this and the other taxation Bills, in putting themselves forward as the champions of the poor consumer, whether they have ever objected to the high protective duty on cotton piece-goods. The effect of that duty has undoubtedly been to increase the price of all cotton piece-goods beyond

what it otherwise would be and the increase may be in the region of 50 per cent. I have more than once challenged Mr. Banerji on this point and I have also enquired as to his attitude in regard to the protective duty on corrugated iron sheets, the price of which too is higher than it otherwise would be. The truth, Sir, is that he has never objected to those protective duties on the ground that they place a burden on the poor consumer, but he and others who think like him all object to a small tax on tobacco which at the most can only cause a very, very small increase in price. He does not object to a burden being placed on a necessity of life for the benefit of the cotton industry in India, but he objects strongly to a small tax on a luxury for the benefit of the local Government. That, Sir, is an attitude I cannot understand.

I have little more to say, Sir, except this: Maulvi Tamizuddin Khan referred to the small boy sitting under a banyan tree and selling *biris*, and said he would have to pay Rs. 3 as a retailer's tax. We shall certainly treat the boy sitting on the roadside as a hawker, that means he will be liable to pay Re. 1 as a license fee. I do not want to detain the House any longer and commend my motion to the acceptance of the House.

The question that the Bengal Tobacco (Sales Licensing) Bill, 1935, as settled in Council, be passed, being then put, a division was taken with the following result:—

AYES.

Afzal, Rowshzada Khwaja Mohammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emadeddin.
Armstrong, Mr. W. L.
Arthur, Mr. G. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Bashir Uddin, Khan Sahib Maulvi Mohammad.
Bose, Mr. S.
Boutheim, Mr. H. D.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Dr. Jogendra Chandra.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Das, Babu Guruprosad.
Dutt, Mr. G. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Guthrie, Mr. F. G.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Lamb, Mr. T.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
Martin, Mr. G. M.
McCluskie, Mr. E. T.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji Rai Sahib Manomohan.
Mukherji, Babu Dhirendra Nath.
Nag, Rev. B. A.
Nag, Babu Sub Lal.
Nandy, Maharaja Sris Chandra of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Raheem, Mr. A.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J. B.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satkowar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Bahadur Akshoy Kumar.
Townend, Mr. H. P. V.
Walker, Mr. E. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali Maulvi Hassan.
Bahab, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Premhari.
Chaudhuri, Khan Bahadur Maulvi Alimuzzamun.
Chaudhuri Babu Kishori Mohan.
Chokhany, Rai Bahadur Ram Dev.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Rural Absar.
Fazlullah, Maulvi Muhammad.
Guha, Babu Profulla Kumar.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Hasham Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mitra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Mullick, Mr. Mukunda Behary.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hanuman Prasad.
Quasem, Maulvi Abul.
Rahaman, Khan Bahadur A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray, Mr Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Ray, Babu Jitendra Nath.
Saadatullah, Maulvi Muhammad.
Sumad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 57 and the Noes 37, the motion was carried.

Adjournment.

The Council was then adjourned till 3 p.m. on Tuesday, the 9th April, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 9th April, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 88 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Sir Daniel Hamilton's scheme of colonization in the Sunderbans.

***110. Mr. W. H. THOMPSON:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether the sum of one lakh, or any part of it, which appeared in the Budget for 1932-33 as a proposed loan to assist Sir Daniel Hamilton's scheme of colonization in the Sunderbans, was expended for that purpose?

(*b*) If the answer to (*a*) is in the negative, do the Government intend to grant such a loan or consider itself bound by the offer made before provision was made in that Budget to grant such a loan?

(*c*) Is the Hon'ble Minister aware that the amount was to be provided by the Government of India and that sufficient security was offered?

(*d*) Are the Government considering the policy of giving direct assistance to Sir Daniel Hamilton's schemes for training young men to assist in rural development.

SECRETARY to GOVERNMENT, AGRICULTURE and INDUSTRIES DEPARTMENT (Mr. J. D. V. Hodge): (*a*) No.

(*b*) No.

(*c*) The Government of India proposed to provide the loan through the Government of Bengal in the ordinary way, the latter being liable for repayment. Sir Daniel offered to mortgage his Gosaba property as security.

(*d*) No.

Maulvi TAMIZUDDIN KHAN: Will Secretary be pleased to state why the money was not spent?

Mr. J. D. V. HODGE: Sir, the scheme was not finally approved.

Inspectors and Auditors of Co-operative Societies, Chittagong Division.

***111. Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Co-operative) Department be pleased to lay on the table a statement showing the amount drawn by the Assistant Registrar, Inspectors and Auditors, Co-operative Societies, Chittagong Division, respectively, as travelling allowances in the years 1932-33 and 1933-34?

(*b*) Is the Hon'ble Minister aware that the tours of Inspectors and Auditors, Co-operative Societies, have been restricted by the Assistant Registrar, Co-operative Societies?

(*c*) How many times did the Liquidator of Taknaf and the Shahaparidwip Societies visit the area from May, 1932, to May, 1934?

(*d*) What were the reasons for placing Auditors in charge of the Societies of their own villages in the Chittagong Division?

(*e*) Has the Hon'ble Minister received any report as to alleged oppression by the Auditors on their co-villagers in the name of the Society?

(*f*) Is the Hon'ble Minister aware that no action has been taken by the Assistant Registrar on the repeated complaints by the villagers against the Auditors?

(*g*) Are the Government considering the desirability of having the Co-operative Societies audited by officers other than the officer in charge of the Societies?

Mr. J. D. V. HODGE: (*a*) A statement is laid on the table.

(*b*) There has been no unnecessary restriction of touring, but in view of the pressing need for economy it has been systematized and tours avoided where this could be done without detriment to the movement.

(*c*) Twice.

(*d*) The general rule is not to place Auditors in charge of Societies located in their home areas and this principle has been observed in the Chittagong Division.

(*e*) No.

(*f*) He has received no such complaint.

(*g*) No.

Statement referred to in reply to Starred Question No. 111(a).

	1932-33.		1933-34.	
	Rs.	A.	Rs.	A.
Assistant Registrar of Co-operative Societies, Chittagong Division ...	839	11	1,730	8
Inspectors of Co-operative Societies ...	5,853	10	6,670	3
Auditors of Co-perative Societies ...	12,983	4	13,327	8

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Appointment of certain officers in the Co-operative Societies in Chittagong.

74. Haji BADI AHMED CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Co-operative) Department be pleased to state when Maulvi Abdul Jabbar, Inspector, Co-operative Society, Chittagong, was placed in charge of the Chittagong Zila Krishi Samiti?

(*b*) Is the Hon'ble Minister aware that three Societies out of five, under the said Samiti, have gone into liquidation and another has voluntarily wound up since the said Inspector was placed in charge?

(*c*) Who is the liquidator of those Societies?

(*d*) How much did the said liquidator collect from those Societies in the year 1932-33?

(*e*) Will the Hon'ble Minister be pleased to state who appointed Maulvi Kabiruddin Ahmed at the Badarkhali Colonisation after his dismissal from the Mithasari Society?

(*f*) Why was M. Sayedul Huq appointed as the Supervisor of the Mithasari Society?

(*g*) Is the Hon'ble Minister aware that the said Maulvi Sayedul Huq had been dismissed from the Badarkhali Colonisation;

(*h*) Will the Hon'ble Minister be pleased to lay on the table the orders of the appointments of Messrs. Ahmed and Huq?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) February, 1930.

(*b*) Yes.

(*c*) The Departmental Officer in charge of Co-operative Societies, Cox's Bazar.

(*d*) A sum of Rs. 186-7-6.

(*e*) Maulvi Kabiruddin Ahmed worked at Badarkhali under the authority of the Zilla Krishi Samity and was removed at the instance of the Colonisation Inspector on account of his complicity in a surreptitious timber business at Mithasari.

(*f*) Because he was considered qualified to hold it.

(*g*) No.

(*h*) The letter of appointment of Maulvi Sayedul Huq is laid on the table. There is none in the case of Maulvi Kabiruddin Ahmed as the Co-operative Department did not appoint him to work in the Badarkhali Colonisation Society.

Extract from letter No. 11972C., dated the 20th August, 1935, from the Assistant Registrar of Co-operative Societies, to the Secretary, Chittagong Zilla Samabaya Krishi Samiti, Ltd., referred to in the reply to unstarred question No. 74(h).

With reference to your letter No. 253, dated the 11th July, 1934, I have the honour to state that sanction is accorded to the entertainment of the following three Supervisors for the supervision of the affiliated Societies of the Chittagong Zilla Samabaya Krishi Samity, Ltd., for the period of 11 months from the 1st April, 1932, to 28th February, 1933. The travelling allowance of the Supervisors should be borne by the Zilla Krishi Samity, Ltd.

* * * * *

(2) Maulvi Sayedul Huq is appointed for the supervision of the Mithasari Colonisation for 11 months from the 1st April, 1932, to 28th February, 1933.

* * * * *

Water-hyacinth.

75. Maharaja SRIS CHANDRA NANDY, of Kasimbazar: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what steps Government have so far taken to combat the menace of water-hyacinth in Bengal and with what results?

(b) Is it a fact that the menace has been increasing and that the Government have not yet been able to tackle the fringe of the problem even?

(c) Have the Government paid attention to the recommendations of the Royal Commission on Agriculture contained in paragraph 318 in which the Commission advocated legislation on the lines of the Madras Agricultural Pests and Diseases Act of 1919 and the Water-hyacinth Acts of 1917 and 1927 of Burma and Assam?

(d) Do the Government possess any information as to the working of these Acts in Madras, Burma and Assam and how far these have been successful in tackling the problem adequately?

(e) Are the Government considering the desirability of introducing similar legislation in this province also?

(f) Had the attention of the Government been drawn to the recommendation of the Royal Commission that "one of the first questions to be taken up by the Council of Agricultural Research should be to conduct research work into the possibilities of eradicating this pest"?

(g) Will the Hon'ble Minister be pleased to state whether any research work was actually undertaken by the Council?

(h) If the answer to (g) is in the affirmative, will the Hon'ble Minister be pleased to state—

(i) what was the outcome of the research work, and

(ii) how had the Government utilized that and with what results?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: The member is referred to the detailed statement which was laid on the table in reply to question No. 146 of Rai Sahib Akshoy Kumar Sen on the same subject.

Since the date of that statement research has been carried out in Orissa with funds provided by the Imperial Council of Agricultural Research. Information has also been collected regarding the measures taken in other parts of the world. Pamphlets describing the methods of destroying the weed and its value as manure has been prepared by the Department of Agriculture and widely circulated. Lastly, an intensive experiment has been undertaken during the past year in the Brahmanberia subdivision. Government have also obtained information regarding the wording of the Assam, Burma and Madras Acts referred to in the question.

It is clear that when the results of the Orissa research have been published—as expected in the near future—there will be sufficient new materials available to justify a re-examination of the whole problem.

Goverment have decided that this should be done under the direction of the Rural Development Commissioner during the current year and the object will be to formulate a definite plan of action for dealing with the pest.

Message of the Council to His Majesty the King-Emperor on the occasion of the Silver Jubilee Celebration.

Mr. PRESIDENT: Gentlemen of the Council, I am sure it will be the wish of the House that a message be sent to His Excellency the Governor as follows:—

"The Bengal Legislative Council in meeting assembled humbly desire, on the eve of prorogation, that a loyal and dutiful message be sent to His Gracious Majesty the King-Emperor conveying the Council's good wishes on the occasion of the Silver Jubilee of His Majesty's reign together with an expression of their unswerving loyalty and devotion to His Majesty's Throne and Person and of their devout hope that His Majesty, with the Queen by his side, may long reign over his people with imperishable glory and renown."

Gentlemen, I would ask you to signify your assent to this message being sent by kindly rising in your places and carrying it with acclamation.

(Pause.)

Thank you gentlemen. Action will be taken accordingly.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

Indian Stamp (Bengal Amendment) Bill, 1935.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg to move that the Indian Stamp (Bengal Amendment) Bill, 1935, as reported by the Select Committee, be taken into consideration.

As in the case of the other taxation Bills, the Committee on this Bill also came to the conclusion that the duration of the enhanced stamp duties should be limited to three years. The Committee added

a new sub-clause to clause 1 to give effect to this recommendation. They have also omitted sub-item (i) of item 17 in clause 7 which sought to raise the stamp duty on the mortgage of a crop when the loan is repayable within three months from the date of the instrument. They also took the view that it was difficult to justify the proposal to raise the duties on a settlement to the level of those payable on a conveyance. The Bill, as amended, also gives effect to these two decisions. Beyond these changes and a small consequential amendment, the Committee proposed no other modification in the duties proposed in the Bill. Sir, I move.

Maulvi HASSAN ALI: Sir, I rise to most strongly oppose this Bill. Of all the taxation measures introduced in this Session of the Council I detest it most. In 1899 the Stamp Act was passed. After a score of years, *i.e.*, in 1922, it was amended and the stamp rates were increased by 50 per cent. more than what they were originally in 1899. And, Sir, now by this Bill the Government proposes to increase the rates by 100 per cent. more. And I do not know, Sir, where would be the limit of increment.

And the wonder of wonders is that the Government brings forward this measure for increasing the stamp rates at a time when the country is passing through the most awful economic crisis. And, Sir, the grounds for this heartless measure is to meet the deficit Budget. Most amazing indeed! What is a stamp after all, Sir, It is nothing but His Majesty the King-Emperor's insignia and seal to give sanctity to the contractual relations transacted and written in papers of His Majesty's subjects. If it is so, Sir, it is the people's moral right that stamps should be free of any duty. But by irony of fate that ought not to be. Let that be, as it may. Ours is a land, Sir, as most wonderful it is, which for the last two centuries has been the playground of many things—senses and non-senses, truths and untruths.

But, Sir, I ask the Hon'ble the Finance Member what has led him to fall upon this source of revenue. The cultivators, the peasants and the landowning poor people will they not be most hard hit by this measure of taxation? Already their miseries know no bounds. They have to borrow money, they have to mortgage their properties, they have to sell their small proceeds of the land to satisfy the Shylock *mahajans* and to pay the *zemindars* rents, and for taking loans, they will have to purchase stamps; and here is the grandest and most brilliant opportunity for the Hon'ble the Finance Member to suck the *raiyats* to their last drop of blood. Sir, have we lost brains? No. I am perhaps wrong. For brains we have sufficient to manufacture measures after measures to rob the poor. But we have lost our eyes—we have lost our ears and last of all we have lost our heart. Don't we see, Sir, what is happening before our eyes? Don't we hear the groaning and

agonies of the poor peasantry? Don't we feel their agony? No, we don't. Because, Sir, we are big statesmen and we are big councillors.

Really, Sir, I feel that we, the intelligentsia of the country, are in an unholy clique—clique as it were to suck the last drop of the blood of the poor. Sir, what is this Government after all? Does it not consist of high salaried and puffed up intelligentsia of the country? Cannot they come forward to serve the poor at this critical juncture? The question is very small—only five lakhs of rupees. Cannot our I.C.S's., our B.C.S's., our I.M.S's., our B.M.S's., our I.P.S's., our B.P.S's., our I.E.S's., our B.E.S's., our Ministers and Councillors, Magistrates and Judges, and so on, sacrifice a little portion of their trunkful of the *saris* and blouses, jackets and gowns of their houses? Can't they sacrifice some portion of the gorgeous luxuries of their bath-room the toilets, the pomades, the soaps and snows.

Let the salary cut be restored, I don't mind. But can't they be less luxurious, a bit more simple to save the very life of the poor. Sir, you will be surprised to hear—I learnt it from newspapers the other day that Bombay city women spend twenty lakhs of rupees annually for toilets alone, not to speak of luxuries in dress. And here in our own city, Calcutta alone spends a little less than that amount, *i.e.*, fifteen lakhs of rupees per annum is spent by our women-folk for their toilet only. Is it not shocking? Is it not heart-rending? Did Sir John shut his eyes? Did he put a seal in his ears and heart when he was searching for sources of revenue to meet the five lakhs of silver coins only? If it was so, Sir, then I would like to tell him, please for God's sake, for humanity's sake, give up this Bill and tax the toilets of Calcutta. And with these words, Sir, I would appeal to the hon'ble members of the House that in the name of *Allah*, in the name of humanity, and, last of all, in the name of poor Bengal, —in the name of mufassal Bengal to throw out this immoral and inequitable Bill.

The Hon'ble Sir JOHN WOODHEAD: Sir, the mover dislikes this measure as much as, if not more than, any other, and he proceeds to make a series of what, I think, I am entitled to describe as mis-statements. He wishes the House to believe, that this Bill raises stamp duties in Geneva by 100 per cent.; it certainly does nothing of the sort. In the first place the Bill is confined to a very small number of articles in the Stamp Act, a very small number indeed, and which were selected with particular care so that the increased duties would not press upon the cultivator. In the second place the increase proposed is not 100 per cent. And, Sir, I think I am justified in asserting that the items were selected with particular care in view of the report of the Select Committee. The Committee omitted two items to which I have agreed. The remainder of the items they

decided to retain. And with the exception of one member who submitted a general note of dissent, there was no note of dissent to the report of the Select Committee.

It is certainly not a fact that this Bill affects the poor cultivator. It has been said it affects the cultivator because it increases the duty on sale deeds; it does not, for the duty on a conveyance is unaffected by the Bill. To say, Sir, that by this Bill we are sucking the blood of the *raiyat* is, if I may say so, to use words of the grossest exaggeration.

Sir, I support my motion.

The motion being put, a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerjee, Babu Jitendralal.
Basu, Mr. S.
Benjamin, Mr. N. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Cohen, Mr. D. J.
Das, Babu Surupprasad.
Dutt, Mr. S. S.
Faroqui, the Hon'ble Nawab K. S. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul-
Hodge, Mr. J. D. V.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Monomohan.
Mukhopadhyay, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nandy, Maharaja Srish Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahaman, Khan Bahadur A. F. M. Abdur-.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. R.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Ray, Mr. Satiswar Singh.
Roy, Mr. Sarat Kumar.
Ray Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Chowdhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Quasem, Maulvi Abul.
Ray, Mr. Shanti Shekhareswar.
Sen, Babu Nagendra.
Samad, Maulvi Abdus.

The Ayes being 44 and the Noes 11, the motion was carried.

Maulvi SYED MAJID BAKSH: Sir, I could not catch what the Hon'ble Member said in regard to sub-item (i) of item (17), and I should like to know whether that sub-item has been omitted or it still exists.

The Hon'ble Sir JOHN WOODHEAD: Sir, if the member will read the Bill, he will find that the first sub-item has been omitted, and that sub-item (*ii*) still remains.

Clauses 1 and 2.

The motion that clauses 1 and 2 stands part of the Bill was put and agreed to.

Clause 3.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 3, line 2, for the words "two rupees" the words "one rupee and twelve annas" be substituted.

Sir, this is an amendment under section 4 of the Stamp Act. Section 4 says that when a transaction of sale, mortgage or settlement is completed by several instruments, the principal instrument is chargeable with a fee prescribed in the Schedule for conveyance, mortgage or settlement, and each of the other instruments is chargeable with a fee of Re. 1-8. Sir, before the Stamp Act was first amended, this fee was Re. 1 only, and this was raised to Re. 1-8, and now it is sought to be raised to Rs. 2. Sir, instead of Rs. 2, I propose that Re. 1-12 be substituted. Sir, I do not stand in the way of the Hon'ble Member who wants to increase the duty, and with a cool and dispassionate mind I want to appeal to the Hon'ble Member once more that he may yet be pleased to see his way to have some compassion for the poor people who are going to be victimised by this Act. If the intention of the Hon'ble Member is to defend his case, whether he has any good ground to defend it or not, that is a different matter, but I appeal to him to judge the thing with a dispassionate mind, and if he does so, he will be convinced that my amendment is a reasonable one. The object of the Bill is to increase Government revenue. I could have understood the position if I were given an assurance that there would be no further amendment of the Stamp Act, and in that case my amendment would not have been necessary. But there is no knowing as to when the Act is going to be amended, and it is for that reason that I have proposed an increase of 4 annas from Re. 1-8 to Re. 1-12. The Hon'ble the Finance Member wants Rs. 2, and I propose Re. 1-12, the difference being only 4 annas. So I do not think that the Hon'ble Member will, on this particular occasion, refuse to grant this small prayer. With these words I move the amendment.

Maulvi HASSAN ALI: Sir, I do not want to make a speech. The demand is a very modest one, and I hope the Hon'ble Member will accept it.

Mr. SARAT KUMAR ROY: Sir, I rise to support the amendment. The demand is a very reasonable one, and I think it ought to be accepted by the House.

Maulvi SYED MAJID BAKSH: Sir, for the last six days we have gone through the Tobacco Bill. We have fought it with all the strength that we could command. I think we should approach this taxation measure in a more or less compromising spirit and finish the matter very soon. If the amendments, as they stand, really aim at a compromise, and if the Hon'ble the Finance Member responds to the spirit of compromise and goes through all the remaining clauses in that spirit, I think the business of the House will be finished very soon. I hope, Sir, that the Hon'ble Sir John Woodhead will accept the suggestion.

The Hon'ble Sir JOHN WOODHEAD: Sir, I am afraid I cannot accept this amendment. My attitude in regard to the Tobacco Bill has been described as "obstinate." On the contrary, Sir, I maintain that during the debate on the Tobacco Bill I exhibited a spirit of compromise in regard to several of the clauses of the Bill. In fact, as I pointed out yesterday, because I exhibited a spirit of compromise as regards one particular matter, one member criticized the Bill because, as a result of my desire to meet the wishes of the House, the maximum license fee for a wholesale dealer had been fixed at Rs. 6 by a specific provision in the Bill. Kazi Emdadul Hoque does not object to some increase in duty; what he wants is—he has tabled several amendments similar in form—that instead of an increase of 8 annas there should be an increase of only 4 annas. Sir, I must maintain my proposal for an increase of 8 annas. I cannot afford to forego revenue—particularly in a case like this where I feel certain that the "poor" person will not be affected.

Sir, I oppose the amendment.

Kazi Emdadul Hoque's motion was then put and lost.

The motion that clause 3 stand part of the Bill was put and agreed to.

Clause 4.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 4, line 2, for the words "two rupees," the words "one rupee and twelve annas" be substituted.

Sir, here, also, my demand is a very modest one, and I do not think that the Hon'ble Finance Member, unless he is obdurate enough, will

find any difficulty in accepting this modest amendment of mine. I am again trying to "touch" his heart if he has any. Now, Sir, I only wish that he should think over this matter very dispassionately. He told us the other day that tobacco-smoking is a luxury. He has introduced five taxation Bills altogether, viz., the Bengal Electricity Duty Bill, 1935; the Court-fees (Bengal Amendment) Bill, 1935; the Bengal Tobacco (Sales Licensing) Bill, 1935; the Indian Stamp (Bengal Amendment) Bill, 1935; and the Bengal Amusements Tax (Amendment) Bill, 1935. Now, the use of electric energy may be considered by the Hon'ble the Finance Member to be a luxury; though according to some others it is not so and it has become almost a necessity. As regards amusements, some may consider them to be necessary as a sort of recreation for the poor villagers—the Hon'ble Member may differ from me. There might be some members of this House who may be of the same opinion as the Hon'ble Member. Tobacco-smoking, according to the light of the Hon'ble Member, is nothing short of a luxury; and there may be some members of this Council—and evidently we found that there were a majority of them—who could go with the Hon'ble Member in the same lobby. Sir, what about this piece of legislation? Is this a luxury? In my opinion, it does not smack of any form of luxury whatsoever. So far as the other measures are concerned, there might be some holding the same opinion as the Hon'ble the Finance Member. But in the case of this measure of taxation—this Indian Stamp (Bengal Amendment) Bill, 1935—the people, I mean the people in general, are compelled to use these stamps, because you have made it compulsory on them to use stamps even in their private transactions. They do not like that they should be taxed with this stamp duty. They make negotiations between themselves and among themselves. If you simply recognize their undertakings, that would relieve them a great deal. In order to give them the "sanction," you ask them to pay this stamp duty. To take an example, I may complete a transaction with another co-villager of mine. If you simply recognize that document, and if the court does not object to accept it as evidence, there would be no necessity of finding fault with it. You have compelled us to pay this duty. You have subjected us to its imposition. It is not a pleasure to us to subject ourselves to this duty. It is not a luxury like tobacco-smoking, nor like going to the cinemas; it is not like using electric fans and lights. It is something which you have subjected the people to pay, and they have done it not of their own accord. So, your argument in regard to the other Bills does not hold good here. It is not, at any rate, a luxury. It is you on account of whose cruelty the people have been subjected to this duty, and it is now for you to consider whether the people in general will be hard hit or not. If a document be not sufficiently stamped, then the man possessing that document cannot prove his transaction in court of justice. A document which is insufficiently stamped is liable to be

impounded. It cannot be used as evidence unless and until sufficient penalty is paid for that. But it is in the discretion of the court either to use it as evidence or not. So, Sir, it is an unwelcome measure from that point of view.

Now, Sir, you say that you want money. Why do you really want money? You want money to balance your Budget. Very well. Is it necessary at all that the Budget should be balanced in this way by taxing the people? Cannot you manage to balance the Budget otherwise? Just look at yourselves; you have gone on extravagantly; you have made extravagant demands on the revenues of the Government of Bengal. Just think of the Treasury Benches. How much do the members of the Treasury Benches swallow up the revenues that come to the coffers of the Bengal Government?

Mr. PRESIDENT: What is the relief you are seeking?

Kazi EMDADUL HOQUE: I mean that there will be no need for extra money to balance the Budget if they would only take a little less salary than what they now draw. If they retrench in that direction, there will be no necessity for balancing the Budget in this way. They can retrench in a number of other directions—say by retrenching the number of officers. If they do so, that will be the wisest course——

Mr. PRESIDENT: I take it that you have no other definite arguments to advance in support of your case.

Kazi EMDADUL HOQUE: No, Sir, I have no other arguments.

Mr. PRESIDENT: In that case, you might resume your seat.

Kazi EMDADUL HOQUE: Sir, I shall finish my speech by saying that I have made this suggestion by way of compromise. I want that Government should meet us half-way by going a little further. Let there be a compromise, and by this compromise great relief will be given to the poorer sections of the people. With these few words, Sir, I commend my amendment to the acceptance of the House.

Maulvi HASSAN ALI: Sir, I beg formally to support the amendment moved by my friend, Kazi Emdadul Hoque.

The Hon'ble Sir JOHN WOODHEAD: Sir, the arguments which the mover has just advanced are really arguments which should be put forward at the stage of the third reading of the Bill. The objections he has raised are objections to any additional taxation; he objects in principle to the whole Bill; his arguments have little bearing on this

particular amendment. As regards this amendment, the mover proposes exactly the same modification as he did in his last amendment, viz., that instead of an increase to Rs. 2 it should be an increase to Re. 1-12. The arguments which I used as regards the previous amendment apply to this one also.

I oppose the amendment.

Kazi Emdadul Hoque's motion was then put and lost.

The motion that clause 4 stand part of the Bill was then put and agreed to.

Clause 5.

The motion that clause 5 stand part of the Bill was then put and agreed to.

Clause 6.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 6, line 2, for the words "two rupees," the words "one rupee and twelve annas" be substituted.

Section 28 (*i*) of the Stamp Act states—

"Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the consideration paid by the sub-purchasers:

Provided that the duty on such last mentioned conveyance shall in no case be less than one rupee."

In the last mentioned case there shall be no conveyance fee of less than Re. 1. There is no loophole left, and Government are not prepared to lose the smallest penny of its income. Let us take an example. Suppose a person contracts to purchase a property for Rs. 125 but after making this contract and before taking out a conveyance, he wants to sell the greater portion of the property to two other persons for Rs. 75 and Rs. 30. Under the existing law he will have to pay Re. 1-8. The first sub-purchaser will have to pay Re. 1-8 and the second sub-purchaser 12 annas. These two purchasers together will pay Re. 2-4 and for the balance of the consideration money Rs. 20 the fee will be 12 annas. All told the Government will get Rs. 3. Now if the original purchaser did not sell out the property to a sub-purchaser he would have been

required to pay only Rs. 3. According to this Bill the purchasers will be required to pay Rs. 3-4. Under the existing Act nothing more than Rs. 3 can be realised from a person who purchases a property for (say) Rs. 125.

Mr. PRESIDENT: Your amendment does not indicate that you have any quarrel with either the principle or the procedure laid down. You want to reduce the amount. Why not develop your arguments on that line?

Kazi EMDADUL HOQUE: Before the amendment the rate was Re. 1. Subsequently it was raised to Re. 1-12 and now it is going to be raised to Rs. 2. I say that instead of doing that Government should be satisfied with Re. 1-12.

The Hon'ble Sir JOHN WOODHEAD: I need not repeat the arguments I have used with regard to the other two amendments. I propose an increase of 8 annas; Kazi Emdadul Hoque prefer an increase of 4 annas. I maintain my position and oppose the amendment.

Kazi Emdadul Hoque's motion was put and lost.

The motion that clause 6 stand part of the Bill was put and agreed to.

Clause 7.

Kazi EMDADUL HOQUE: I beg to move that in clause 7(*2*)(*a*), line 3, for the words "four annas," the words "three annas and six pies" be substituted.

It was formerly two annas; in 1922 it was raised to three annas and the present Bill makes it four annas. I propose to make it three annas six pies.

The Hon'ble Sir JOHN WOODHEAD: I suppose this is one of the duties which is alleged to affect the "poor" person. As a matter of fact the sub-clause in question deals with bills of exchange. I doubt whether the cultivators are interested in bills of exchange. I oppose the amendment.

The motion was put and lost.

Kazi EMDADUL HOQUE: I beg to move that in clause 7(*3*), line 3, for the words "ten rupees," the words "eight rupees and twelve annas" be substituted.

Formerly it was five rupees only. It was raised from Rs. 5 to Rs. 7 and Rs. 8. But the insatiable greed of the Treasury Bench wants to make it Rs. 10. I suppose Rs. 8-12 is enough and that ought to satisfy Government.

The Hon'ble Sir JOHN WOODHEAD: I formally oppose the amendment.

The motion was put and lost.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 7 (*4*), lines 2 and 3, for the words "ten rupees," the words "eight rupees and twelve annas" be substituted.

Sir, the same remarks that I have made in moving the previous amendment apply also in this case.

The Hon'ble Sir JOHN WOODHEAD: Sir, I formally oppose the amendment.

The motion was then put and lost.

Mr. P. BANERJI: Sir, I beg to move that clause 7 (*5*) be omitted.

Sir, we find in the Indian Stamp Act that the stamp duty for the articles of association of a company was originally only Rs. 25. By the Bengal Act, III of 1922, this was raised to Rs. 50, *i.e.*, it was doubled, but in the Indian Stamp Act there has been no amendment up till now and the duty is still Rs. 25. In other provinces of India the stamp duty on the articles of association of a company has not been raised from Rs. 25. I fail to understand why then the Government of Bengal is raising it again, although it was raised from Rs. 25 to Rs. 50 only recently. The flotation of companies in Bengal is not so much as in Bombay and other provinces. Only recently an attempt was made in Bengal to float companies and particularly to start many small concerns instead of partnership business, with a small capital of about Rs. 20,000. The flotation of these companies, particularly in Bengal, is many in number. If the stamp duty is increased from Rs. 50 to Rs. 100 except in the case of those companies whose nominal share capital does not exceed Rs. 1,00,000, I consider it would be a great hardship on those who are willing to float these small companies. The flotation of small companies in Bengal is between 2 to 5 lakhs of nominal share capital. I, therefore, move my motion and I want the Hon'ble Member to stick to the original stamp duty of Rs. 50 which has already been practically doubled in Bengal but has not been raised in any other province.

The Hon'ble Sir JOHN WOODHEAD: Sir, the sub-clause in question proposes no change as regards the stamp duty payable on the articles of association of a company when the nominal share capital does not exceed Rs. 1,00,000. Mr. P. Banerji is guilty of an inconsistency when he talks about small companies with a share capital of Rs. 25,000 being hit by the Bill. Such companies will not be affected

by the sub-clause at all. But as regards companies whose nominal share capital exceeds Rs. 1,00,000, it is proposed to increase the stamp duty to Rs. 100. I fail to see how in the case of a company whose nominal share capital exceeds Rs. 1,00,000, it will be a hardship to pay Rs. 100.

The motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Qassem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Nocani.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emadeddin.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Base, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Allimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizar Rahman.
Chokhany, Rai Bahadur Ram Dev.
Cohen, Mr. D. J.
Das, Babu Gurupresad.
Dutt, Mr. G. S.
Farooqui, the Hon'ble K. G. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Hague, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Kassem, Maulvi Abul.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Kazaur Rahman.
Lamb, Mr. T.
Martin, Mr. D. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Mr Brojendra Lal.
Mukherji, Rai Sahib Monomohan.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rai Mahasai, Manindra Deb.
Ray Choudhury, Mr. K. S.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Thompson, Mr. W. H.
Wathar, Mr. R. L.
Whitmore, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 15 and the Noes 48, the motion was lost.

Kazi EMDADUL HOQUE: I beg to move that in clause 7 (*6*), line 3, for the words "ten rupees," the words "eight rupees and twelve annas" be substituted.

Sir, here the arbitrator's award is sought to bear the additional burden. But as the Hon'ble Member is taking long strides and is galloping, we must also do the same and let him breathe a sigh of relief. Therefore, I will not trouble the House with a speech.

The Hon'ble Sir JOHN WOODHEAD: Sir, I formally oppose the amendment.

The motion was then put and lost.

Kazi EMDADUL HOQUE: I beg to move that in clause 7 (7), line 2, for the words "eight annas" the words "six annas and six pies" be substituted. I do not like to make a speech on it. Let the Hon'ble Member say what he pleases.

The Hon'ble Sir JOHN WOODHEAD: I suppose this again is one of the items which is alleged to affect the poor cultivators; it is a bill of lading. I oppose the amendment, Sir.

The motion was then put and lost.

Mr. SARAT KUMAR ROY: Sir, I beg to move that in clause 7, sub-clause (8) be omitted.

Sir, I have put in several amendments to this Bill seeking to delete some of the new imposts by enhancing the scale of fees. My grounds being nearly the same in all the cases, I wish to make one speech in support of all of them for shortening the discussion.

Mr. PRESIDENT: How could you do that?

Mr. SARAT KUMAR ROY: I will make one speech and only formally move my other amendments.

Mr. PRESIDENT: But I hope the arguments that you will advance now will be relevant to your present amendment.

Mr. SARAT KUMAR ROY: Certainly, Sir.

It goes without saying that our country and particularly this province of Bengal is still passing through acute economic depression, whereby the landholding community, I mean both the landlords and the tenants, are most hard hit. Such economic depression has unquestionably reduced their paying capacity and this point should not be lost sight of in levying any new or additional burden upon them. It was only in 1933 that these were the very items in which the taxation was enhanced by 50 per cent. I am sure, Sir, that far from any improvement, there has been a marked deterioration in the paying capacity of the people since then. So the situation does not justify our putting any larger burden on the people. Then, Sir, you will find that taxation in the items I have singled out for deletion is practically the same in all the provinces of India, except Bombay. Bombay being far advanced industrially than the other provinces of India,

economic situation was also far better there; hence, it was possible for the Legislature to put a heavier burden there. Sir, if that was the situation in 1932, when we had no economic depression in our province, I think the present situation does not justify any departure. It does not therefore stand to reason to bring the scale up to the Bombay standard in the present wretched condition of the people of this province.

With these words I commend my motions for the acceptance of the House.

Maulvi SYED MAJID BAKSH: Sir, if I understood the Hon'ble Member aright while he was opposing the previous amendment, that amendment did not touch the poor cultivators. But I think he should accept this amendment which actually touches the poor cultivators. In clause 7 (*8*) it is provided that in Article No. 15 in the second column for the entry "one rupee fourteen annas" the entry "two rupees four annas" be substituted. One rupee fourteen annas is in respect of a bond where it exceeds Rs. 200 and does not exceed Rs. 300. It is common knowledge that the poor cultivators when they want to borrow money do so upon executing a bond and the stamp for that bond is covered by Schedule I-A of the Stamp Act which the Hon'ble Member is now seeking to amend. When a man borrows money he must be in dire need and the amount is so small that only poor cultivators and men of their pecuniary position will come under the purview of this clause. When a man needs money it goes without saying that he goes and borrows it. It is common knowledge to all of us, and I do not know whether it is known to the Hon'ble Member that when trying to borrow money a man has to pay the duty on the stamp. The creditor does not pay a farthing.

(The Council was at this stage adjourned for 15 minutes.)

(After Adjournment.)

Maulvi SYED MAJID BAKSH: As I was remarking, this clause has been so framed as to lay the burden heavily on a class of people who are generally poor and that is why I beg to oppose the Bill clause and support the amendment. Sir, what is the amount by which it is going to be raised? Instead of Re. 1-14 it is Rs. 2-4, that is, 6 annas is the amount of increase. I do not know what will be the amount by which the exchequer will be benefited as a result of this clause. I think, Sir, counterbalanced against the difficulty that will be caused to the poor people and the way in which it will affect the poverty-stricken debtors, who, driven to the last resort, go to borrow money is the small benefit that will accrue to the exchequer. I have

already told you that when a man is in his last straits then and then alone does he go and borrow money and, as is the custom and as is perhaps known to everyone in these particular cases, I mean the cases of bonds, it is the borrower who pays the stamp duty and not the creditor. Later on, you will find that the Hon'ble Member has exempted conveyances altogether. In the case of conveyance, it may or may not be known to the Hon'ble Member, that it is the vendee, I mean the purchaser, that pays the stamp duty because it is his necessity. In the case of a bond, however, the practice is otherwise, because the need is greatly on the side of the borrower and therefore the creditor makes him pay. When a man borrows Rs. 200 or a little more than that, he has generally got to borrow it at a high rate of interest. Coupled with that if we consider that he has to pay as stamp duty a great deal more than he had to pay before, the hardship on him may very well be conceived. So, Sir, in the interests of the poor borrower, most of whom are cultivators and who have got the sympathy of the Hon'ble the Finance Member as we all know and we have reason to believe from his remarks, I think the Hon'ble Member will do well to forego this increment of duty. Generally, when the cultivator has either to purchase his cattle for the plough or provides for the wherewithal for ploughs, etc., then he has got to borrow money. When he goes to borrow money, he will find himself confronted with this increment of duty. Of course, his hardship may very well be imagined. I therefore submit to you and would request the Hon'ble the Finance Member to forego the small amount of increase which will not benefit him to any appreciable extent and thus earn the gratitude of a large number of people, most of whom are cultivators. Sir, I am not objecting to many of the clauses which are in their way very sound. They are taxes on rich people——

Mr. PRESIDENT: Maulvi Sahib, you need not go into that point. Have you advanced all your arguments in favour of your motion?

Maulvi SYED MAJID BAKSH: Yes, Sir, I have finished my argument, and I am now making my appeal, so that I may make my suggestion commendable to the Hon'ble Member in charge.

Sir, there are many items which follow and——

Mr. PRESIDENT: You need not go into those items now.

Maulvi SYED MAJID BAKSH: Sir, my submission is that since those amendments will shortly be discussed, the Hon'ble Member in charge might forego this 6 annas. If he does so—and I might tell you, Sir, that there are three items which are only objectionable and

the rest are not—and if he could agree to a compromise, as I suggested in the beginning, and thus lighten the burden on the poor by even a small amount, I think this section of the House will be particularly grateful to him. With these words, I support this amendment.

Mr. PRESIDENT: Mr. Ray, would you please move your two amendments (Nos. 267 and 268) together and make one speech on them?

Babu KHETTER MOHAN RAY: Sir, I beg to move that clause 7 (*8*) (*a*) be omitted.

I beg also to move that clause 7 (*8*) (*b*) be omitted.

Sir, my reason for moving these amendments is that these bonds are largely resorted to by the people. Perhaps these kinds of bonds are executed more than any other kinds mentioned in the Schedule. If we enhance the stamp duty on bonds, not only the bonds themselves but also other kinds of instruments will be affected, because the instrument of partition will bear the same stamp duty as the bonds, not only the partition decree but also the Bottomry bond. There are other instruments mentioned in the Schedule of the same Act which have the same stamp duty as the bonds, and consequently it is an important item in the section. A large number of people will be affected if the duty is enhanced. Before 1921, the stamp duty on bonds, generally speaking, was 8 annas per Rs. 100 on the valuation of the bond; but in 1922, the stamp duty was raised in the case of bonds the valuation of which ranges from Rs. 200 to Rs. 600 at the rate of 10 annas per Rs. 100 and beyond Rs. 600 at the rate of 9 annas per Rs. 100 on the valuation of the document. At that time the stamp duty was enhanced to the extent of 20 per cent., but here it is proposed to add another 25 per cent. on bonds from Rs. 200 to Rs. 600, bonds for Rs. 100 to Rs. 200 remaining unaffected. Sir, my submission is that bonds of the value of Rs. 200 to Rs. 400 are generally resorted to by the cultivating classes, and that this rate should not be enhanced any further. We know that people holding small properties generally divide their properties by instruments and the value of these properties does not exceed Rs. 400. These people have to pay the stamp duty on these bonds. Consequently, if these two items are enhanced, as is proposed in the Bill, I submit that it would cause a great hardship. For these reasons, I move the two amendments which stand in my name.

The Hon'ble Sir JOHN WOODHEAD: Sir, Maulvi Syed Majid Baksh has said that people in dire straits borrow money. That is in a way true, Sir; but I have taken particular care to find out whether our proposals will hit the "poor" cultivator. We have not proposed

any increase of duty when the amount does not exceed Rs. 200. Beyond Rs. 200, and not exceeding Rs. 500, the existing duty is to be increased by a further 25 per cent., and in this respect we have followed the example of Burma and Bombay. Recently, Sir, careful enquiries have been made into the subject of agricultural indebtedness and the general conclusion I came to on examining the results of those enquiries was that the number of cultivators who execute bonds of a value of over Rs. 200 is very small. I will not tire the Council by attempting to support my conclusion by a mass of figures, but will content myself by referring to figures relating to families of occupancy *raiyats* who have incurred debts exceeding Rs. 200 in the year 1932-33. These are as follows:—

District.	Number of families in regard to which investigations were made.	Number of families who have incurred debts over Rs. 200 in 1932-33.
Bankura	... 258	3
Birbhum	... 252	11
Jessore	... 490	4
Nadia	... 304	5
Pabna	... 297	Nil.
Rajshahi	... 297	1
Dacca	... 549	13
Tippera	... 354	7

These figures certainly point to the conclusion that an increase in the duty on bonds exceeding Rs. 200 in value is not likely to hit the "poor" man. On the other hand I am prepared to admit that the figures are not an infallible guide and in view of the feeling in the House I am prepared to accept the amendment of Babu Khetter Mohan Ray, viz., No. 267, which seeks to carry the exemption from an increase on duty as far as bonds the value of which do not exceed Rs. 300, that means there will be no increase in the duty on a bond which exceeds Rs. 200 but does not exceed Rs. 300 in value. That, Sir, is as far as I am prepared to go; I cannot go any further.

The motion (No. 265) of Mr. Sarat Kumar Roy was, by leave of the Council, withdrawn.

The motion (No. 267) of Babu Khetter Mohan Ray was then put and agreed to.

The motion (No. 268) of Babu Khetter Mohan Ray was, by leave of the Council, withdrawn.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 7(*8*)(*b*), line 2, for the words "three rupees," the words "two rupees and twelve annas" be substituted.

Sir, it has been said by some of my friends who have spoken before me that a bond is a thing which our people cannot do without. So, it is a matter which ought to be very carefully considered by us, the councillors here. It was only yesterday that we passed the Tobacco Bill and that measure has already unnerved the people. Then as soon as they would see that they are going to be burdened with some other tax, that would break their hearts and they might die of heart failure. (Laughter.) In that case, Sir, the Government will be guilty of culpable homicide not amounting to murder—not according to British Law but according to the Divine Law. I hope, Sir, that the Hon'ble Member will see his way to accept this amendment.

The Hon'ble Sir JOHN WOODHEAD: Sir, I formally oppose the amendment.

The motion was then put and lost.

Kazi EMDADUL HOQUE: Sir, I beg formally to move that in clause 7(*8*)(*c*), line 2, for the word "twelve" the word "eight" be substituted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg formally to oppose this amendment.

The motion was put and lost.

Mr. SARAT KUMAR ROY: Sir, I beg to move that in clause 7, sub-clause (*11*) be omitted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg formally to oppose the amendment.

The motion was put and lost.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 7(*11*)(*i*), lines 2 and 3, for the words "one rupee" the words "fourteen annas" will be substituted.

Sir, what else can I expect from the Hon'ble Member? He wants Re. 1 and I went to give him 14 annas, *i.e.*, 2 annas less than what he asks for. This is a most important matter. Certified copies of documents have under certain circumstances to be taken from the Registration offices. We know that when a person is required to take such copies, he requires them to prove certain things on producing the documents, and he has to go to the district headquarters for obtaining these copies. Now everybody knows to what expense a particular litigant is put in order to obtain a certified copy. Not only the usual charge is to be paid but that a particular litigant has got to meet some other demands. As he is badly in need of such document in the midst of the

case he does not care for money and he goes all the way to headquarters to get that copy. Now if in any such case a man is likely to undergo a further burden, I think that man also is likely to lose his time. I therefore say that at least our Hon'ble Member in charge will have compassion upon these poor litigants.

Mr. PRESIDENT: Will you please move No. 279 also?

Kazi EMDADUL HOQUE: I beg to move that in clause 7(*11*)(*ii*), line 3, for the words "two rupees" the words "one rupee and twelve annas" be substituted.

The Hon'ble Sir JOHN WOODHEAD: I don't think I need do more than formally oppose the amendments.

Kazi Emdadul Hoque's motion being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Nasiem Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Roy, Mr. Shasti Shekhareswar.
Rout, Babu Nosoni.
Ray, Mr. Sarat Kumar.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Base, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Allimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizar Rahman.
Cohen, Mr. D. J.
Cooper, Mr. G. R.
Dutt, Mr. G. S.
Farequi, the Hon'ble N. G. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, J. S. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Lamb, Mr. T.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Monomohan.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suh Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satiscwar Singh.
Roy Chowdhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Thompson, Mr. W. H.
Walker, Mr. D. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 22 and the Noes 44, the motion was lost.

Kazi Emdadul Hoque's motion (No. 279) was then put and lost.

Kazi EMDADUL HOQUE: I beg to move that in clause 7(*12*)(*i*), line 3, for the words "two rupees" the words "one rupee and twelve annas" be substituted.

The Hon'ble Sir JOHN WOODHEAD: I formally oppose the motion.

The motion was put and lost.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 7, sub-clause (*13*) be omitted.

Sir, it is a question of divorce. Formerly in place of Re. 1 it was raised to Rs. 2 and now it is proposed to raise it to Rs. 5. Many Muhammadan families, poorer section, will be hard hit, and I hope that this question would be considered by Government favourably. I think the Muhammadan members will consider this question seriously as to whether the divorce fee should not be reduced.

Maulvi SYED MAJID BAKSH: People must pay for divorces.

Babu KISHORI MOHAN CHAUDHURI: If that be the case, then I need not move my amendment, but I myself feel that there are many poor Muhammadan families that will be hard hit. So I hope it will be omitted.

The Hon'ble Sir JOHN WOODHEAD: I oppose this amendment. I believe a Muhammadan member of this Council put forward a proposal during the course of the Budget Debate that every divorce should be registered at a Registration Office. He was prepared to require every divorce to be affected by a registered document.

Khan Bahadur Maulvi EMADUDDIN AHMED: We oppose it.

The Hon'ble Sir JOHN WOODHEAD: I am only informing Babu Kishori Mohan Chaudhuri that a Muhammadan member was prepared to require every divorce deed to be registered and was not deterred from suggesting that proposal on the ground that it would involve the persons concerned in expense. I oppose the amendment.

The motion was put and lost.

Kazi EMDADUL HOQUE: I beg to move that in clause 7 (*13*), line 2, for the words "five rupees" the words "three rupees" be substituted.

This relates to instrument of divorce. Divorce cannot be prevented. It will take place and the person wanting to divorce his wife should

not be penalised in this way. The Muhammadans may require registration of this thing as the best piece of evidence, but that does not show that the Muhammadans ask Sir John Woodhead to increase the tax for divorce. I do not like to take much time of the House, but as the present Government in the person of Sir John Woodhead is divorced of all good sense and reason we must get ourselves divorced from this demand.

Rai Bahadur SATYA KINKAR SAHANA: I oppose this amendment. My reason is that divorce should not be made easy. It should be made more difficult. Mentality of human beings is fast changing and society is going in a wrong way perhaps. Therefore, divorce should be made more stringent and not easy.

Dr. NARESH CHANDRA SEN GUPTA: I am surprised at the speech that has been made by Mr. Sahana. He thinks that if you raise the stamp duty to Rs. 5 it will discourage divorce. So far as the Hindus are concerned the question of divorce will not arise at all.

Khan Bahadur MUHAMMAD ABDUL MOMIN: It will arise very soon.

Dr. NARESH CHANDRA SEN GUPTA: Even if it arises it will be by decree of court. So far as the Muhammadans are concerned they can divorce by word of mouth and no document is needed. It is only for the purpose of evidence that a document is necessary. If a preventive stamp duty is passed, there would be lesser divorces on documents and more and more oral divorces, while the maintenance of records of marriage and divorces is of the utmost importance.

The Hon'ble Sir JOHN WOODHEAD: There are many Muhammadan Marriage Registration Offices and a person who is not prepared to pay the duty on a deed of divorce can go and have the divorce registered at the office of a Muhammadan Marriage Registrar.

I oppose the amendment.

The motion being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Mr. Nasiem Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nagesh.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Ahmad, Khwaja Muhammad, Khan Bahadur.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Surat Chandra.
Bose, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Cohen, Mr. D. J.
Cooper, Mr. S. G.
Das, Babu Guruprosad.
Dutt, Mr. S. N.
Faruqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hedge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nasser Rahman.
Lamb, Mr. T.
Martin, Mr. G. M.
Miller, Mr. S. G.
Miller, the Hon'ble Brojendra Lal.
Mukharji, Rai Sahib Monomohan.
Mukhopadhaya, Sir Rai Sahib Surat Chandra.
Nag, Rev. B. A.
Nag, Babu Suk Lal.
Nasimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Rai Mahasai, Manindra Deb.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Thompson, Mr. W. H.
Walker, Mr. J. R.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 20 and the Noes 47, the motion was lost.

Mr. P. BANERJI: I beg to move that clause 7 (*15*) be omitted.

Sir, in doing so I have to put forward the same arguments that I did in connection with item No. 255. This clause proposes that where the nominal share capital does not exceed one lakh of rupees, the stamp duty should be Rs. 80, and where the nominal share capital exceeds one lakh of rupees, it should be one hundred and thirty rupees. This increase to Rs. 130 is to take effect when the memorandum of association is not accompanied by the articles of association. Government naturally expects that in the case of a company that is going to be floated with only memorandum of association and without the articles of association, the stamp duty should be fixed on the memorandum of association Originally the stamp duty in this case was Rs. 40 and then it was raised to Rs. 80. Now this clause seeks to increase it to Rs. 130. I fail to understand why there should be such an exorbitant increase. Therefore, I move for the deletion of this clause.

The Hon'ble Sir JOHN WOODHEAD: This sub-clause should be read with clause 7 (*5*). The Council has approved of an increase in the duty payable on articles of association from Rs. 50 to Rs. 100, where the nominal share capital exceeds Rs. 1 lakh, that is an increase of Rs. 50. In this case what we propose to do is to add this increase of Rs. 50 to the present figure of Rs. 80, that is when the memorandum of association is not accompanied by articles of association and the

nominal share capital exceeds one lakh the duty will be raised to Rs. 130 from Rs. 80. The increase is consequential to clause 7 (*5*).

I oppose the amendment.

The motion was then put and lost.

Mr. SARAT KUMAR ROY: I beg to move that in clause 7, sub-clause (*20*) be omitted.

Sir, I do not wish to take up the time of the House by making a speech. I formally oppose the amendment.

The Hon'ble Sir JOHN WOODHEAD: Sir, I formally oppose the amendment.

The motion was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 7, sub-clause (*21*) be omitted.

Sir, it is a case of rules. In many cases rules are necessary, but the poorer section is very much affected by them. Therefore, I suggest that this clause should be omitted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I oppose this amendment. The poorer classes are not affected, because no increase in duty is proposed in regard to documents where the amount does not exceed Rs. 1,000.

The motion was then put and lost.

Mr. SARAT KUMAR ROY: I beg to move that in clause 7, sub-clause (*22*) be omitted.

The Hon'ble Sir JOHN WOODHEAD: Sir, I formally oppose this amendment.

The motion was then put and lost.

The motion that clause 7, as amended, stand part of the Bill was then put and agreed to.

Preamble.

The motion that the Preamble stand part of the Bill was then put and agreed to.

The Hon'ble Sir JOHN WOODHEAD: Sir, I beg to move that the Indian Stamp (Bengal Amendment) Bill, 1935, as settled in Council, be passed.

The motion being put, a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Arthur, Mr. G. S.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basu, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nazir Rahman.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Das, Babu Guruprosad.
Dutt, Mr. S. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Homan, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Martin, Mr. G. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukherji, Rai Sahib Manomohan.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Rev. B. A.
Nag, Babu Sak Lal.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J. B.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Ray, Mr. Sarat Kumar.
Roy Chaudhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kishor.
Thompson, Mr. W. H.
Walker, Mr. R. L.
Whitehead, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Hussain, Maulvi Muhammad.
Khan, Mr. Mosharruf Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Rahman, Maulvi Azizar.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Nagendra.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 46 and the Noes 20, the motion was agreed to.

The Bengal Amusements Tax (Amendment) Bill, 1935.

The Hon'ble Sir JOHN WOODHEAD: Sir I beg to move that the Bengal Amusements Tax (Amendment) Bill, 1935, as reported by the Select Committee, be taken into consideration.

The only change made by the Select Committee in the Bill was to limit the operation of this Bill as in the case of other Bills to a period of three years.

Mr. P. BANERJI: Sir, I beg to move that the Bengal Amusemen Tax (Amendment) Bill, 1935, be recommitted.

The Hon'ble Member has just told us in moving his motion that t only change that has been made by the Select Committee is about t period of currency, that is, they have recommended that the Act shou continue only for three years. I consider, Sir, that this Bill has n been thoroughly considered and public opinion has not been obtain and whatever public opinion was obtained was against this measu particularly about the rate of taxes to be imposed.

Mr. PRESIDENT: The question of public opinion does not ari at this stage.

Mr. P. BANERJI: Is it not within the competence of the Sele Committee to collect public opinion?

Mr. PRESIDENT: That is a different matter. As far as I remem ber the Select Committee had no such specific instruction from th House. However, if you like to develop that particular argument will not prevent you, but I warn you that you cannot go into it a length.

Mr. P. BANERJI: My submission to you is that there was on opinion before the House but that opinion goes against this Bi and it does not appear that——

Mr. PRESIDENT: Order, order. The position is this: The Hon'bl Member's motion is that the Bill as reported by the Select Committe be taken into consideration and you want the Bill to be recommitte to that particular Select Committee. Do you mean to say that th only object at the back of your mind is to send the Bill back to ther so that they may elicit public opinion thereon?

Mr. P. BANERJI: That was my expectation, Sir, in moving thi recommittal motion. Even if we are able to recommit the whole thin to the Select Committee, does it follow that we cannot request th Committee to go into that and secure public opinion and ascertai whether any other changes so far as this Bill is concerned are neces sary? It is a vital point, Sir.

Mr. PRESIDENT: You cannot do that under the amendment tha is now before the House. In that case you should have amplified you amendment by specific instructions to the effect that the Select Com mittee must obtain public opinion on the Bill in a particular manner Not having done that, you must confine your remarks to the amend ment as it stands.

Mr. P. BANERJI: Is it necessary that when moving a motion for recommittal reasons are to be given for that? We knew that the only way we could amend a Select Committee motion was only to suggest additional names for the personnel of that Committee and that we could not do anything else.

Mr. PRESIDENT: I do not agree with you. In the original motion to refer the Bill to the Select Committee or in your present motion you could have given instructions to the Select Committee if they were to proceed in a particular manner.

Maulvi SYED MAJID BAKSH: May not a member suggest in moving a motion for recommittal that it should also include the collection of public opinion?

Mr. PRESIDENT: In that case the motion itself should be explicit on that point. Mr. Banerji should have so worded his amendment as would really and definitely indicate that.

Maulvi SYED MAJID BAKSH: But the next Committee might do it.

Mr. PRESIDENT: The motion as it stands leaves it to the discretion of the Committee. Under your motion you may incidentally say that they did not give ample opportunity to the public to state their views and should therefore reconsider the point, but you cannot make it obligatory on them to elicit public opinion in a particular manner. For the purpose of your motion you have to show that they neglected any particular feature of the Bill or that they did not get or devote sufficient time to deal with certain items in the Bill. Have they violated any principle of the Bill which the parent body had accepted, or exceeded their legitimate powers, or so drastically changed the provisions of the Bill as to make it for all intents and purposes a new Bill? If you are really in earnest and your motion is not a mere dilatory motion, you should adopt something like that for your line of argument.

Mr. P. BANERJI: That is my opinion also. What I submit to you is that this matter was not considered seriously by the Select Committee. So if this Bill is again recommitted there will be great scope for improving the Bill. So far as the tax of 4-anna or 8-anna tickets is concerned this Bill seeks to withdraw the exemption that existed under the old Act and to impose a tax on those tickets. So far as we are aware the Hon'ble Member in moving his motions in other cases said that he was copying Bombay, but I submit, Sir, that in Bombay

there is no such tax on 4-anna tickets nor is there any in Madras. An Act was passed in Madras, but 4-anna tickets were exempted from the purview of that tax, so I submit that the cinema is a poor man's recreation and they go to the 4-anna seats after their day's work, particularly at the end of the week, when they are off their duty and if the 4-anna tickets are taxed, these poor people will be hard hit. So my submission is why the Hon'ble Member, who always stands by the Bombay Act, has given it up in this particular case? In Bombay the labourers earn more than they do in Bengal and those labourers can certainly pay a tax on these tickets. But in spite of that there is no taxation on 4-anna tickets there. Why then for Bengal will the Hon'ble Member insist on a tax being put on 4 anna and 8-anna tickets? There is another question, Sir. In Bombay and other parts of the country there are films in Urdu. Now in Bengal there are only Bengali films, and it is a new industry in Bengal; so, if you levy this tax the worst sufferers from it will be the Bengali film companies and Bengali films will not be sold in any other part of India except Bengal, while Urdu films are sold all over India. Therefore, by taxing 4-anna tickets, not only will the poor people be hard hit, but also the Bengali film companies will be hard hit. It is a very small industry started by Bengalis, and I think 4-anna seats should be exempted in order to help these industries and indirectly make it possible for the labourers, millhands, etc., to buy 4-anna tickets for their recreation. With these words I move my motion for the acceptance of the House.

The Hon'ble Sir JOHN WOODHEAD: Sir, I oppose the motion. The amendment is purely a dilatory motion. Mr. P. Banerji was a member of the Select Committee. He wrote a long note of dissent and in that note there is not one word which suggests that Mr. Banerji thought that the Select Committee did not examine this Bill properly and carefully. In fact, Sir, the Select Committee received a deputation from the producers, distributors and exhibitors of the cinema industry; they gave the deputation a very patient hearing and came to their decision after a full consideration of the statements made by these representatives of the industry.

Sir, I oppose the motion for recommittal of the Bill to Select Committee.

The motion was then put and lost.

Clause 1.

Kazi EMDADUL HOQUE: Sir, I beg to move that in clause 1(*3*), line 2, for the words "three years" "two years" be substituted.

Sir, I may begin by asking the Hon'ble Member in charge the same question, whether he does grudge the poor people a little bit of amusement after the toil and moil of their hard work during the day. It is only those people who count their money by thousands may think that the poor people working in the fields do not require such recreation at all. Besides, Sir, by suggesting "two years" instead of "three years," my idea is that on account of the rise in the value of the tickets the poor people will be scared away from these cinemas and for the period of two years only they will be deprived of this amusement. Further, we do not know in what light our successors in the Legislature will look at these taxation measures. The new constitution is in sight and will perhaps come into being soon; and I do not think that we should tie their hands or that we should impose our will on them. We cannot anticipate in what spirit they will take these measures. So, it is not at all fair on our part to lay down this period of three years. For this reason, at any rate, I hope the Hon'ble Member in charge will accept this humble and modest request of mine.

The Hon'ble Sir JOHN WOODHEAD: Sir, I oppose the amendment. A period of "three years" has been adopted in the case of all these five taxation Bills. There is no question of endeavouring to impose our will on the party that may be in power under the new constitution. The new Government will have complete freedom to extend the operation of this Bill for a further period or to let it drop according as they think proper.

Sir, I oppose the amendment.

The motion was then put and lost.

Then, the motion that clause 1 stand part of the Bill was put and agreed to.

Clause 2.

Kazi EMDADUL HOQUE: Sir, I beg formally to move that in clause 2(2), line 2, for the words "three annas" the words "six annas" be substituted.

Mr. P. BANERJI: Sir, I beg to move that in clause 2(2) for the words "three annas," the words "four annas" be substituted.

Sir, in doing so I would put forward the same argument that in Bombay the 4-anna tickets are not taxed and there is no taxation imposed on the 4-anna tickets in any part of India. So I do not see why the Bengal Government should impose a tax on these tickets,

because it is the poor people who enjoy the cinema by purchasing these tickets. I also maintain that the small cinemas which have recently been started are resorted to by the poorest section of the people and if this taxation is imposed the small cinema industries will be hard hit. I, therefore, propose that these tickets should be exempted from the operation of this Bill.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 2(*3*), proposed item (*i*) be omitted.

Sir, the object of my amendment is that people visiting the cinemas on tickets of 4 annas or less should be exempted from the payment of any tax. I submit that it is only the poorer section of the people who visit the cinemas with tickets of such small values and that it will not be a good policy to tax these people, because, Sir, everyone knows that these classes of people include the labourers of the various factories as well as other day labourers. The cinema is one of the things which keep away these people from worse forms of dissipation. So, no difficulties should be placed in the way of their enjoying the cinema shows. On the other hand, I think encouragement should be given to these people to visit these cinemas in order to keep them away from other forms of vice. Sir, I am not against this Bill as a whole, but I am against taxing poor people who cannot afford to purchase tickets of the value of more than 4 annas.

Mr. PRESIDENT: Mr. Tamizuddin Khan, I think the remarks you have just made will cover your amendments Nos. 317 and 322. Would you please move them now?

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 2(*3*), in proposed item (*i*), line 2, for the words "half an anna," the words "quarter of an anna" be substituted.

I beg also to move that in clause 2(*3*), in proposed item (*ia*), line 2, for the words "one anna," the words "half an anna" be substituted.

As regards amendment No. 317, Sir, I propose that in place of "half an anna" the tax should be "quarter of an anna." If these people who purchase these lower value tickets be at all taxed, I think that half an anna will be too much for them. Therefore, I have proposed quarter of an anna.

As regards amendment No. 322, I have proposed therein that instead of one anna the tax should be half an anna. This is as regards people who purchase tickets of the value above 4 annas up to 8 annas. I think these proposals are very modest and hope the Hon'ble Member will accept them.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in proposed item (*i*) of clause 2 (*3*), line 1, for the word "three," the word "four" be substituted, and in line 2, for the word "four" the word "eight" be substituted.

Sir, I do not think that any speech is necessary as much has already been said on this and analogous subjects.

Sir, I formally move the amendment.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to support the amendment moved by my friend Kazi Emdadul Hoque, suggesting that in clause 2 (*2*), line 2, for the words "three annas," the words "six annas" be substituted. Sir, the grounds in support of this amendment have already been very lucidly placed before this House by the mover of the amendment as well as by several other speakers, because, Sir, this and similar amendments cover more or less the same ground——

Mr. PRESIDENT: Mr. Ray, I hope you will be sweet and short as ever. (Laughter.)

Mr. SHANTI SHEKHARESWAR RAY: Sir, I thank you very heartily for the compliment, but I do not believe that the Treasury Benches bear the same feeling of kindliness towards me.

Sir, we are now dealing with the Bengal Amusements Tax (Amendment) Bill, 1935. I know, Sir, that there is already a tax on certain classes of tickets. I believe that the Hon'ble Member in charge in his desire to raise some more revenues has brought forward this measure. Well, I do not know what are the reasons which have prompted him to try to tap this source of revenue by way of further taxation. It appears that he is only in need of money, but his intention is to tax the poorest class of people in this country evidently with a view that there may be no charge against him that he is only taxing the rich or those who can afford to pay. First of all I would object to that policy of Government which wants to raise money from the poorest class of people.

Mr. PRESIDENT: I am afraid you are not speaking on the amendments.

Mr. SHANTI SHEKHARESWAR RAY: I am trying to omit the poorest class of people from the scope of this tax by substituting the words 6 annas for 3 annas, because that will exclude the poorest class of people from the scope of this tax. The position of the Hon'ble Member in charge of the Bill is that he wants to raise money from the

poorest class of people and my suggestion is that he should not raise tax from this class of people at all. By accepting this amendment he will be relieving the poorest class of people from this burden of taxation. I am not going to suggest that it is a very heavy tax. Perhaps there may be people who may shoulder this burden, but the whole policy of taxing this poorest class ought to be challenged and objected to. From this point of view I suggest that he should accept this amendment and not drag the poor people into his net.

Dr. NARESH CHANDRA SEN GUPTA: I support these amendments which are practically the same, because there are no 6-anna tickets in cinemas. There are 4-anna tickets, and if we exclude them we exclude the poorer class. The Government of India appointed a Cinematograph Committee. They made a number of recommendations for the benefit of the cinema industry as well as for the education of the public. One of the recommendations of that Committee was that the amusement tax should be relaxed so that tickets of lower value should be exempted from taxation. But the Government of Bengal has not accepted any of the recommendations, so far as I am aware, of the Cinema Committee, and they now come forward to make this answer to the recommendations of the Cinema Committee. While they recommended that 8-anna tickets should be exempted, this Government propose to tax the 4-anna tickets.

The Hon'ble Sir JOHN WOODHEAD: May I ask Dr. Sen Gupta from which chapter and verse he is quoting?

Dr. NARESH CHANDRA SEN GUPTA: I have not got the chapter and verse here with me. If I am wrong Sir John Woodhead may correct me. Then there is the other question that the cinema industry in Bengal is not in a flourishing condition and in their interest it would be inequitable to charge this tax on the poorest people. But perhaps Sir John Woodhead would say that the end justifies the means. This is the means to get a hold on half of the jute duty and his next step would be that in order to get one-fourth more of the jute duty to tax something more (say) the theatricals and private *jatra* parties and last of all for getting 16 annas he will tax mere singing. If he does that, he will do a great benefit to the people of Calcutta who have too much music all round. If it is his object for the purpose of getting the jute duty to tax the light the people use, the tobacco they consume and the cinemas they go to, he will have achieved his object.

The Hon'ble Sir JOHN WOODHEAD: There are two main proposals—one is to exempt tickets of not more than 6 annas and the other to exempt tickets of not more than 4 annas. The loss of revenue

involved by the several amendments are as follows. On Kazi Emdadul Haque's proposal we should lose Rs. 86,000, on Mr. P. Banerji's Rs. 75,000, on Maulvi Tamizuddin Khan's nearly Rs. 76,000 and on Babu Kishori Mohan Chaudhuri's Rs. 1,36,000. Sir, I am not quite clear why Babu Kishori Mohan Chaudhuri has not moved his amendment No. 321 for this appears to be consequential to No. 316. We shall certainly lose a considerable amount of revenue by exempting the 4-anna ticket. After all, if a person can afford to pay 4 annas for his amusements surely he can afford to pay 4½ annas. If anybody who visits the cinema, cannot afford to pay 4 annas I shall certainly not regret his absence, if the effect of the extra half-anna is to keep him away. I maintain that if he can afford to pay 4 annas he can afford to pay 4½ annas. I oppose the amendment.

Then the motions (Nos. 306, 309, 314, 316, 317 and 322) were put and lost.

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question before the House is that the preamble stand part of the the Bill.

The motion was put and agreed to.

The Hon'ble Sir JOHN WOODHEAD: I beg to move that the Bengal Amusement Tax (Amendment) Bill, 1935, as settled in Council be passed.

Mr. NARENDRA KUMAR BASU: I beg to oppose this Bill and for reasons which by now are familiar to the House. But there is still another point of view which I want to place before the House. In opposing the amendments to clause 3, Sir John Woodhead was pleased to say that if as a result of raising of taxation that class of population which can ill-afford to pay 4 annas abstain from attending cinemas he would certainly welcome that abstention. I have no doubt that Sir John Woodhead and others who have the real benefit of the poorer people at heart will try to see that they do not waste their hard-earned money in attending cinemas and other places of amusement. But there is the point of view of the proprietors of the cinema industries which are, as you know, infant industries in the province and if the 4-anna people are discouraged and they do not come to the cinemas then I am afraid they will have to shut their shops in no time. Sir John Woodhead as the Finance Member will not only not welcome that

but he will rue the day. If he gets no tax out of this Bill I am quite sure the humanitarian Sir John will not welcome that position. There is another point of view. Apart from killing the goose that lays golden eggs, Sir John wants by this amending Bill to drive the poorer section of the people out of cinemas into the welcoming arms of his hon'ble colleague the Minister of Excise. That I submit is a proposition to which this House will be rather chary of acceding. That might be one of the ruses for getting that revenue by a roundabout means I am reminded by Maulvi Tamizuddin Khan. I am not willing to credit or discredit Sir John with that sort of Machiavelian tactics, but he may find that without wanting it this measure may have had that result. Apart from my objection to the general principles of taxation at this time, I submit that there are cogent reasons why the House should not give its assent to this Bill.

The Hon'ble Sir JOHN WOODHEAD: What I said was that if persons who cannot afford to pay 4 annas are prevented from going to the cinemas I would not regret their absence. What Mr. Narendra Kumar Basu says in effect is this, that people who cannot afford to pay 4 annas for a cinema should continue to visit the cinemas in order to help the producers. He desires the producer to benefit at the expense of the gentlemen who cannot afford to pay an admission fee of 4 annas. Those are Mr. Narendra Kumar Basu's ethics.

The suggestion that I support this measure in order to increase the excise revenue was not put forward seriously, and I will not treat it seriously.

I support my own motion.

The motion being put, a division was taken with the following result:—

AYES.

Aizal, Nawabzada Khwaja Mahammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Arthur, Mr. G. C.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Bate, Mr. S.
Benjamin, Mr. H. D.
Blandy, Mr. E. R.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur, Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizar Rahman.
Cohen, Mr. D. J.
Das, Babu Guruprosad.
Dutt, Mr. G. S.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur,
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hodge, Mr. J. D. V.
Human, Mr. F. T.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Martin, Mr. C. M.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mukharji, Rai Sahib Manomohan.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nag, Rev. B. A.
Nag, Babu Suh Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar,

Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray Choudhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J. B.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Roy, Mr. Satiseswar Singh.
Ray, Mr. Sarat Kumar.
Ray Choudhuri, Babu Hem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr. W. H.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Choudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Qassem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hosani.
Sen Gupta, Dr. Naresh Chandra.

The Ayes being 51 and the Noes 17, the motion was agreed to.

The Bengal Land-Revenue (Interest) Bill, 1935.

The Hon'ble Sir BROJENDRA LAL MITTER: Sir, I beg leave to introduce the Bengal Land-Revenue (Interest) Bill, 1935.

The motion that leave be granted to introduce the Bengal Land-Revenue (Interest) Bill, 1935, was then put and agreed to.

(The Secretary then read the short title of the Bill.)

Prorogation.

Mr. PRESIDENT: I have it in command from His Excellency the Governor to announce that the Council stands prorogued.

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